

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.01.2021

CORAM:

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.20805 of 2020

Ganesh @ Ganesan

... Petitioner/Accused No.1

-Vs-

State Represented by

The Inspector of Police,
Marakkanam Police Station,
Villupuram District.

(Crime No.1898 of 2020)

... Respondent/Complainant

Prayer: Criminal Original petition filed under Section 438 of Code of Criminal Procedure praying to enlarge the petitioner on bail in the event of their arrest by the respondent police concerned in Crime No.1898 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.M.Prabaharan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 294 (b), 341, 323 and 506(ii) of IPC, in Crime No.1898 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The petitioner is the sole accused. The case of the prosecution is that the victim was working in a textile shop and on 04.11.2020 at about 9.00 p.m., when she was at the bus stop, the petitioner asked her to get into his auto. Since he made her to believe that he is also living in the same village as that of the victim and believing the words of the petitioner, the victim girl boarded the auto and after a while, the petitioner along with his friends tried to commit sexual assault with the victim

girl. Hence, on the complaint lodged by the victim, a case was registered against the petitioner.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an auto driver and living in the same village as that of the victim girl and he has not committed any offence and he has no bad antecedents in his account. Hence, he prays for grant anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the earlier bail application in CrI.M.P.No.482 of 2020 filed by the petitioner was dismissed on 17.12.2020 by the learned Sessions Judge, Magalir Neethi Mandram (Fast Track Mahila Court), Villupuram. The friend of the petitioner namely Muthu tried to drag the victim girl to a secluded place to commit sexual assault on her and thereafter, both of them assaulted the victim girl and misbehaved with her. Hence, he opposed to grant anticipatory bail to the petitioner.

5. Considering the facts and circumstances of this case, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.II, Tindivanam, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police every day at 10.30 a.m., for a period of two week and thereafter as and when required.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

7 With the above directions, this Criminal Original Petition is ordered.

-sd/-
08/01/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.II,
TINDIVANAM.

2 THE CHIEF JUDICIAL MAGISTRATE
VILLUPURAM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MARAKKANAM POLICE STATION,
VILLUPURAM DISTRICT.

+1CC to M/S. M.PRABAHARAN Advocate on payment of necessary charges SR NO.287

CRL OP.20805/2020

Date :08/01/2021

MK:22/01/2021