



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twenty Fourth day of February Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice R. PONGIAPPAN

CRIMINAL ORIGINAL PETITION No.2321 of 2022

AND

CRL.MP.NO.1486 of 2022

T.RAHUL ANAND

[PETITIONER / ACCUSED]

Vs

THE INSPECTOR OF POLICE,
W-28, ALL WOMEN POLICE STATION,
AMBATTUR.
(CRIME NO.02/2022)

[RESPONDENT/COMPLAINANT]

For Petitioner : MR.MA.GOWTHAMAN for M/S. R.KRISHNA KUMAR Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate (Crl. Side)

For Intervenor : M/S.S.DEEPIKA Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Sections 417, 420 and 506(i) of IPC, in Crime No.2 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The defacto complainant has filed an intervening petition in Crl.M.P.No.1486 of 2022.

3. The case of the prosecution is that the defacto complainant is currently working as a Co-pilot at Alliance Air and that the petitioner met her in the year 2011 at flying institute in Uttar Pradesh and have been in the relationship with her for the past 9 years, promising her that he would marry her and have had physical relationship with her. As the petitioner refused to marry her,



alleging that he has cheated her, the defacto complainant has lodged a complaint before the respondent police. Hence, the respondent police registered a case against the petitioner.

4. The learned counsel appearing for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He would further submit that during the relevant point of time, both the petitioner and the defacto complainant fell in love with each other and as result of which betrothal for their marriage also took place on 04.09.2021. During such time, the petitioner and the defacto complainant helped each other by providing cash depending upon the necessity. Only after the betrothal, there arose a misunderstanding between the petitioner and the defacto complainant, as a result of which, the present case has been registered against the petitioner. He also submitted that the petitioner is ready and willing to abide by any conditions that may be imposed on him by this Court. Accordingly, he pleaded for granting anticipatory bail to the petitioner.

5. The learned counsel appearing for the intervenor / defacto complainant would submit that after fixing the marriage by celebrating the betrothal, now the petitioner is refusing to marry the defacto complainant. Further, before taking such a decision, the petitioner and his family members have demanded a Car and also a huge sum as dowry. The defacto complainant alone spent more amount towards the medical expenses of the petitioner. Now, the petitioner got a new girl friend and due to the same, he has refused to marry the defacto complainant and also refused to give back the money, which was received during the relevant point of time.

6. The learned Government Advocate (Criminal Side) appearing for the respondent police stating that investigation is pending, vehemently opposed for grant of anticipatory bail to the petitioner.

7. Considered the submissions made by the learned counsel appearing for the petitioner, the learned counsel appearing for the intervenor/defacto complainant and the learned Government Advocate (Crl.Side), appearing for the respondent police. The CD file produced before this Court, has also been perused.

8. Here it is a case, the respondent police has registered a case as against the petitioner for the offence punishable under Sections 417, 420 and 506(i) of IPC. Admittedly, the petitioner and the defacto complainant are pilots working in different airlines. While at the time they were taking training in Flying Institute at Uttarpradesh, they met and later, the friendship having by them developed into a love affair, as a result of which, both of them fell in love with each other. During such time, both of them went to various places and stayed as husband and wife. Further, they



indulged in sexual activities. After some time, the family members on either side, decided to arrange the marriage between the defacto complainant and the petitioner and upon the same, betrothal also took place at Hilton on 04.09.2021. Only thereafter, misunderstanding arose between them and thus, the instant case has been registered against the petitioner.

9. The documents annexed with typed set produced by the intervenor/defacto complainant would clearly show that both the petitioner and defacto complainant had jointly went to various places and indulged in sexual activities. In this connection, it would be necessary to see whether such act committed by either side, would amount to the offence punishable under Section 377 of IPC.

10. Here it is a case, after indulging in sexual activities, the betrothal has also taken place on 04.09.2021 and thereafter only they were separated. The participation of the petitioner in the betrothal ceremony is sufficient to hold that he is having the intention to marry the defacto complainant at that time. Therefore, it cannot be said that the promise made by the petitioner at the time of indulging in the sexual activities, is a false one. If he had the intention to deceive the woman, it is not for him to participate in the betrothal ceremony. Therefore, only during the time of trial, we have to find out the intention having by the petitioner.

11. In respect to other offences i.e. Sections 417 and 420 IPC, in the affidavit filed by the defacto complainant, the petitioner has paid money to her and sometimes, she also had paid money to him. In the said circumstances, it would be necessary to see whether the petitioner herein is having the intention to defraud the defacto complainant by accepting the money, which also has to be identified only during the time of trial. In otherwise, the communication exchanged by the petitioner and the defacto complainant are in the verbal form and therefore, it would not be possible to destroy the same. More than that both the petitioner as well the defacto complainant are in a reputed position and therefore, the question of absconding also may not arise. Furthermore, the witnesses, who are all necessary for completing the investigation are all the family members of the petitioner and the defacto complaint and as such, tampering of evidence also would not be possible in the present case. Therefore, taking into consideration all these aspects, this Court is inclined to grant anticipatory bail to the petitioner.

12. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-I, Ambathur, on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 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 Court concerned 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 daily at 10.00 a.m., until further orders.

(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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

13. The intervening petition filed by the defacto complainant in Crl.M.P.No.1486 of 2022 is dismissed.

-sd/-

24/02/2022

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

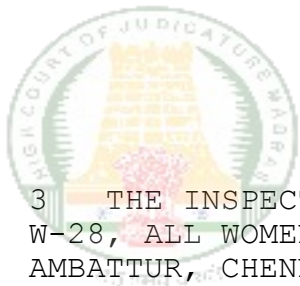
TRUE COPY

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

TO

1 THE JUDICIAL MAGISTRATE-I,
AMBATHUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVALLUR [FOR INFORMATION]



3 THE INSPECTOR OF POLICE,
W-28, ALL WOMEN POLICE STATION,
AMBATTUR, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. R.KRISHNA KUMAR Advocate on payment of necessary
charges SR.No.2945

+1CC to M/S. S.DEEPIKA Advocate on payment of necessary charges
SR.No.2861

CRL OP.2321/2022
AND
CRL.MP.1486/2022
Date :24/02/2022

CSK 28/02/2022