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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.3944 of 2022

V.Vasanth Kumar

...Petitioner/Accused

*versus*

The State,  
Rep. by its Sub-Inspector of Police  
Ethappur Police Station,  
Salem.  
(Crime No.8 of 2022)

...Respondent/Complainant

**PRAYER:** Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.8 of 2022 on the file of the respondent police.

For Petitioner : Mr.R.Jayaprakash

For Respondent : Mrs.G.V.Kasthuri

Additional Public Prosecutor

### ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.01.2022 for the offences punishable under **Sections 449, 323, 376 and 511 of IPC** in Crime No.8 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 08.01.2022, the petitioner entered into the house of the *de facto* complainant and attempted to rape her. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the averments found in the First Information Report does not disclose the ingredients, which are necessary for showing the offence under Section 376 IPC. It is his specific submission that the petitioner is



in judicial custody from 09.01.2022 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that, a portion of the investigation has been completed.

5. The submissions made by the learned counsel appearing on either side are considered.

6. It seems that the respondent police registered a case against this petitioner for the offences punishable under Sections 449, 323, 376 and 511 of IPC. Now, on going the averments found in the First Information Report would show that during the relevant point of time, the petitioner attempted to rape the victim. The petitioner is the first offender and he is in judicial custody from 09.01.2022 onwards.

7. Therefore, taking note of all the above said aspects into consideration and having regard to the nature of offence committed by the petitioner and also by considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to certain conditions. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) 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 learned Judicial Magistrate No.I, Attur;

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. for a period of 30 days and thereafter, as and when required for interrogation;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Judicial 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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-sd/-  
17/02/2022

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,  
NO.I, ATTUR, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE  
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,  
ETHAPPAUR POLICE STATION,  
SALEM.

5 THE SUPERINTENDENT,  
CENTRAL PRISON, SALEM.

+1 CC to M/S. R.JAYAPRAKASH Advocate on payment of necessary charges SR.NO.2512

CRL OP.3944/2022

Date :17/02/2022

TA-18/02/2022