



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Ninth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.12939 of 2022

NIYAS @ MOHAMED NIYAS

[PETITIONER / ACCUSED]

Vs

STATE REP BY
INSPECTOR OF POLICE,
C.C.I. POLICE STATION,
NAGAPATTINAM DISTRICT.
CRIME NO. 8 OF 2022.

[RESPONDENT]

For Petitioner : M/S. T.ANANTHASEKAR Advocate

For Respondent : M/S.A.DAMODARAN, Additional Public Prosecutor

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 offences punishable under Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, Section 6 of Indecent Representation of Women Act and Section 67 of Information Technology Act, 2008, in Crime No.8 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that totally there are two accused persons, the petitioner is arrayed as A-1. The defacto complainant is the wife of A-2, due to a family dispute, A-2 and the defacto complainant got separated five months back. It is alleged that the petitioner (A-1) on instigation of A-2 posted an objectionable photograph on social media stating the defacto complainant as a call girl. Hence, the complaint.



3. The learned counsel for the petitioner would submit that according to the petitioner, he is a visually challenged person who is 40% blind and he could not have posted such an objectionable photo. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that there are totally two accused in this case and it is seen that on the instigation of A-2 this petitioner (A-1) posted the objectionable photo in the social media stating the defacto complainant is a call girl and hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case, according to the petitioner, he is 40% blind and he could not have posted the photo in the social media. That apart, A-2 and defacto complainant are husband and wife and only of the instigation of A-2, the petitioner is involved in this offence. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. 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 on which the order copy made ready, before the learned Judicial Magistrate I, Nagapattinam, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood related 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 daily at 10.30 a.m. for a period of two weeks and thereafter as and when required for interrogation.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-

09/06/2022

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, NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM DISTRICT. [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
C.C.I. POLICE STATION,
NAGAPATTINAM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. T.ANANTHASEKAR Advocate on payment of necessary charges SR.NO. 8728

CRL OP.12939/2022

Date :09/06/2022

RW-14/06/2022