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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 13/12/2022

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.21160 of 2022

Fathima AL Hasina

... Petitioner/Accused
Rank Not Known

Vs

State rep.by
The Inspector of Police,
Madurai City Cyber Crime Police.
(Crime No.105 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Kishok Kumar V S, Advocate

For Respondent : Mr.K.Sanjai Gandhi,
Government Advocate (Crl.Side)

For Intervenor : Mr. N.Thammul Ansari, Advocate

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

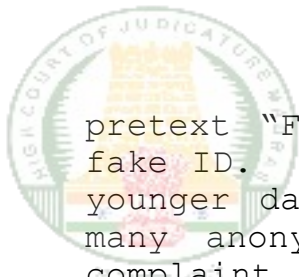
PRAYER :-

For Anticipatory Bail in Crime No.105 of 2022 on the file of the Respondent Police

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 66 D, 67 A of Information Technology (Amendment) Act, 2000 INFC and Sections 354(A), 354(D) of I.P.C, in Crime No.105 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the defacto complainant received an anonymous call stating that from the facebook ID viz., 'Rafia Fathila', the defacto complainant younger daughter Fathila's photos were posted along with the mobile number used by the defacto complainant, viz., 8838141910, on the



pretext "Free for ##X" and in furtherance it is revealed a fake ID. The said post was vulgar, which affects the future of her younger daughter. Due to which, the defacto complainant received many anonymous calls including obscene video calls. Hence, the complaint.

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3. (i) The learned counsel for the petitioner submitted that the petitioner is innocent and she has been falsely implicated in this case. The defacto complainant is none other than the sister-in-law of the petitioner. There exists enmity between the parties, with regard to share of family properties. The defacto complainant used to give complaints against the close relatives in the family and putting pressure on them to settle the properties in her favour. Similarly, the defacto complainant has lodged complaints in Crime No.151 of 2021, against her husband and his brother and in Crime No.251 of 2021, against her husband and father-in-law, as if, they harassed and misbehaved with her. On the strength of the said complaints, her husband settled 3 plots in her favour. There is a collusion between the defacto complainant and her husband and thereby, false complaints have been given by her and on the strength of the same and under threat of arrest had compelled her husband and father-in-law to settle properties in her favour. Earlier, the defacto complainant's husband obtained a legal-heir certificate, in respect of petitioner's deceased mother, by suppressing the existence of other legal-heirs and attempted to knock his mother's properties for himself. In this regard, the petitioner also gave a complaint against the defacto complainant and her husband before the Commissioner of Police, Madurai.

(ii) The learned counsel for the petitioner would further submit that in this case, the first accused has been arrested and confession has also been recorded from him, wherein, he had admitted that he is the person, who used the cell phone of the petitioner and sent obscene posts. Therefore, the custodial interrogation of the petitioner may not be required further. This is the second anticipatory bail petition. Hence, prays to enlarge her on anticipatory bail.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner and the defacto complainant are relatives and the petitioner is the sister-in-law of the defacto complainant. There was an enmity between the parties, on account of sharing of properties, due to which, the petitioner along with other accused posted abusive materials, morphing the photograph of the defacto complainant's younger daughter and also given the mobile number of the defacto complainant, stating that the person in the photo was available free for sex. He would further submit that the co-accused/A1 has been arrested and as per his confession, it is stated that he had misused the phone of the petitioner and from that he sent all the obscene posts. Though the mobile phone has been recovered from A1, SIM card is not yet recovered. Hence, prays to dismiss the petition.



5.The learned counsel for the intervener would submit that the petitioner is the sister-in-law. In the year 2018, the defacto complainant married the first accused in this case, who is her third husband. The petitioner had attempted to grab the property of her husband and father-in-law, which, she caused rift among the family members and the petitioner's husband has also given a false complaint against her husband, as if, he is having an illegal affair with another woman and in this regard, a complaint was also registered before the concerned Jamat. If the petitioner released on bail, she may cause hindrance to the defacto complainant and also hamper the investigation. Hence, prays to dismiss the petition.

6.Heard the learned counsels and perused the materials placed before this Court.

7.Taking into consideration the facts and circumstances of the case and considering the fact that the main accused has been arrested and as per his confession it is revealed that he is the person, who has misused the phone of the defacto complainant, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate No.I, Madurai**, on condition that the petitioner shall execute a 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 stay at Theni and report before the Theni Town Police Station everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders and further the petitioner shall not enter into the jurisdictional limit of the respondent Police, for a period of one month;

[c] the petitioner shall not tamper with the 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/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
13/12/2022

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/12/2022
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

TO

1. THE JUDICIAL MAGISTRATE NO.I,
MADURAI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
MADURAI CITY CYBER CRIME POLICE,
MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
5. THE INSPECTOR OF POLICE,
THENI TOWN POLICE STATION.

+1. CC to M/S.KISHOK KUMAR V S Advocate SR.No.14864

ORDER
IN
CRL OP (MD) No.21160 of 2022
Date :13/12/2022