

Crl.O.P.No.728 of 2023

T.V.THAMILSELVI, J.

The petitioner, who apprehends arrest for the alleged offence under Section 376 IPC and Section 67 and 67(A) of Information Technology Act, 2008 in Cr.No.502 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. There are totally five accused in this case, in which the petitioner is arrayed as A1, his wife is arrayed as A2 and his father as A4. The case of the prosecution is that the petitioner had booked a room and called the defacto complainant and given her a soft drink and made her unconscious. In that stage, the petitioner committed a sexual assault on her and the same was also video graphed by the petitioner. When that was questioned by the defacto complainant, the petitioner threatened her that he would upload her obscene videos in the social media. Hence, the case.

3.The learned counsel appearing for the petitioner submits that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner and the defacto



complainant are known to each other and they belong to the same community. On account of previous enmity, the complaint has been given as against the petitioner. Further that A2, A3 and A4 were granted anticipatory bail. Hence, he prays to grant anticipatory bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had booked a room and called the defacto complainant and given her a soft drink and made her unconscious. In that stage, the petitioner committed a sexual assault on her and the same was also video graphed by the petitioner. When that was questioned by the defacto complainant, the petitioner threatened her that he would upload her obscene videos in the social media. Hence, he vehemently oppose for grant of anticipatory bail to the petitioner.

5.Considering the facts and circumstances of the case and that the alleged occurrence happens to be in the year 2019 and that since the petitioner and the defacto complainant are well known to each other, there is no possibility of tampering the evidence, this Court is inclined to grant anticipatory bail to the petitioner.



6. Accordingly, the petitioner is ordered to be released on anticipatory bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **Judicial Magistrate-II, Erode** 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 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 every Wednesday at 10.30 a.m. for a period of eight 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;

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(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 anticipatory 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.

12.01.2023*anu***Crl.O.P.No.728 of 2023**