

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2023

CORAM

THE HONOURABLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.3415 of 2023

Dr.Sajith Ahamed

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
N-1 Royapuram Police Station,
Chennai.

(Crime No.19 of 2023)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C., pleaded to enlarge the petitioner on bail, in connection with the Crime No.19 of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.I.Abdul Basith

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

For Intervenor : Mr.K.Chandrasekaran

ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.01.2023, for the offences punishable under Sections 294(b), 506(ii) and 195A of IPC, in Crime No.19 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had married one Dr.Anish Fathima on 25.07.2021 and at the time of marriage 100 sovereigns of gold and car had been given, however, the petitioner along with his family members had harassed Dr.Anish Fathima and demanded huge dowry from her and her parents and thereby, on the complaint given by the said Dr.Anish Fathima (complainant), a case in Crime No.10 of 2022 was registered by the All Women Police Station, Royapuram for the offences punishable under Sections 294(b), 498(A), 506(i) and 34 of IPC. The accused were arrested and later they come out on bail and on 26.12.2022 the accused, through their henchmen, had threatened one K.Mohamed Iqbal, uncle of the de facto complainant Dr.Anish Fathima. Hence, a case in Crime No.19 of 2023 came to be registered by the respondent Police for the offences punishable under

Sections 294(b), 506(ii) and 195A of IPC.

3. The learned Counsel for the petitioner would submit that it is a matter arising out of a matrimonial dispute. The petitioner husband and the wife are medical doctors by profession. The petitioner Dr.Sajith Ahamed was arrested on 13.01.2023 and he had approached this Hon'ble Court for grant of bail in Crl.O.P.No.3415 of 2023 and during the course of investigation, the petitioner had, without prejudice to his rights, offered to settle a sum of Rs.40,00,000/- to the de facto complainant Dr.Anish Fathima, wife of the petitioner as full and final settlement in three installments and it was also agreed by the learned Counsel appearing for the intervenor. Further, the petitioner had also offered to pay/deposit a sum of Rs.15,00,000/- to the account of the de facto complainant Dr.Anish Fathima on or before 03.03.2023 and thereby, this Court by its order dated 27.02.2023 had granted interim bail to the petitioner with the following condition:

"(b) the petitioner is directed to pay a sum of Rs.15,00,000/- by way of Demand Draft to the wife Dr.Anish Fathima on or before 03.03.2023 and also file Memorandum of Understanding before this Court with regard to remaining payment and also to file petition for mutual divorce and to compromise

quash proceedings."

4. However, since the amount was not paid and the learned 16th Metropolitan Magistrate, George Town, Chennai, had refused to accept the sureties and release the petitioner on bail and thereby, the matter was listed before this Court on 03.03.2023. On 03.03.2023, it was mentioned that the petitioner was in judicial custody and he was unable to sign the Memorandum of Understanding and to pay the 1st installment of amount of Rs.15,00,000/- as directed by this Court and thereby, this Court had ordered the petitioner to be released on interim bail on 27.02.2023 on condition to execute a bond as directed within a period of one week from the date of release, the petitioner was also directed to comply with the said condition and report before this Court on 09.03.2023.

5. When the matter was listed on 10.03.2023, the learned Counsel for the petitioner as well the intervenor had sought time stating that settlement talks were pending and pursuant to the same, the matter is listed today.

6. Today, the learned Counsel for the petitioner and the learned counsel for the intervenor would submit that the matter arises out of a matrimonial dispute and now the matter has been settled between the parties and they have also entered into a Memorandum of Compromise dated 13.03.2023, wherein, the parties have mutually agreed to settle the disputes and various litigations pending between themselves and they have also agreed for quashment of proceedings pending against the petitioner. The learned Counsel would further submit that the first installment of Rs.15,00,000/- has been paid by the petitioner to the de facto complainant Dr.Anish Fathima (wife of the petitioner) by way of two Demand Drafts bearing D.D.Nos.141284982 and 141284990 dated 01.03.2023 and the Demand Drafts have also been acknowledged by the de facto complainant Dr.Anish Fathima.

7. In both the cases, the Memorandum of Understanding is signed by the de facto complainant Anish Fathima and Mr.K.Mohamed Iqbal (uncle of the de facto complainant) as first and second part and the petitioner Dr.Sajith Ahamed and Mrs.Khadarsha Rahmatnachiya (mother of the

petitioner) as third and fourth part.

8. Heard both sides and perused the entire materials available on record including the FIR.

9. Taking into consideration the facts and circumstances of the case, the submissions made by Counsel on either side and taking note of the Memorandum of Understanding, the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

10. Accordingly, the petitioner is ordered to be released on bail on his executing 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 **learned 16th Metropolitan Magistrate, George Town, Chennai**, and on further conditions 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 his Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall appear before the respondent police as and when required for

interrogation.

[c] the petitioner shall comply with the terms of Memorandum of Understanding.

[d] the petitioner shall not abscond either during investigation or trial;

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] 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]*;

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

11. The Memorandum of Understanding shall form part of the Court Records.

13.03.2023

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A.D.JAGADISH CHANDIRA, J.

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To

1. The 16th Metropolitan Magistrate,
George Town, Chennai.
2. The Inspector of Police,
N-1 Royapuram Police Station,
Chennai.
3. The Puzhal Central Prison,
Chennai.
4. The Public Prosecutor,
High Court of Madras.

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The Criminal Original Petition is listed today under the caption “for being mentioned”.

2. Learned counsel appearing for the Petitioner submitted that pursuant to the earlier interim bail granted by this Court on 27.02.2023, the petitioner has surrendered before the Court concerned and also furnished the sureties, thereby, he prayed that the said Interim order may be made absolute.

3. Considering the above submission, the paragraphs 9 and 10 of the order dated 13.03.2023, shall be read as follows:

“9. Taking into consideration the facts and circumstances of the case, the submissions made by Counsel on either side and taking note of the Memorandum of Understanding, the period of incarceration undergone by the petitioner, the Interim Bail granted by this Court is made absolute with the following condition.

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10. The petitioner shall appear before the respondent
Police as and when required for interrogation."

23.03.2023

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