



Crl.O.P.No.6933 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.O.P.No.6933 of 2023

Maheswaran

... Petitioner

Vs.

The State represented by,
The Station House Officer,
Thirubuvanai Police Station,
(Crime No.88 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.88 of 2022, pending on the file of respondent Police.

For Petitioner : Mr.D.Padmanabhan

For Respondent : Mr.K.S.Mohandas,
Public Prosecutor (Puducherry)
Assisted by Mr.A.Alexander
Government Advocate



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 03.02.2023 for the offences punishable under Sections 376, 312, 506(ii) of IPC r/w Section 34 of IPC in Crime No.88 of 2022, on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the defacto complainant/Shanmugapriya is that she and the accused were having love affair for the past 11 years, during such time, on the assurance of marrying her, the accused had induced her and repeatedly had sexual intercourse with her and also taken videos of the same. Later, by threatening to share the videos in the social media had compelled her to have sexual intercourse with him. While so, she had also been insisting for the marriage and since the accused did not agree for the marriage, the victim, on the compulsion of her parents, married one Prakash on 11.11.2021. Later, the accused, on the threat of disclosing the videos in the social media, had asked her to come out from the matrimonial home and she had gone along with him and they stayed in a house as husband and wife, during which time, she became pregnant. The accused had compelled her to abort the pregnancy and also demanded 50



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sovereigns of jewels and Rs.5 lakhs as dowry. Later, on 27.05.2022, the accused, without her knowledge, had given a juice laced with abortion pills, due to which, she sustained grave pain and she suffered an abortion and later, she was admitted in the hospital and she returned back to her home on 02.06.2022. She heard that the accused was making preparation to marry another woman and when she had questioned about the same, the accused had threatened her and asked her to go and die, thereby, she attempted to commit suicide by consuming oleander seeds. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given. He would further submit that admittedly, even as per the prosecution, there was a love affair between the petitioner and the defacto complainant for the past 11 years and above, during such time, there was a consensual relationship between both of them. Due to misunderstanding, the defacto complainant had married one Prakash and later, leaving the said Prakash, the defacto complainant came back and started living with the petitioner and once again, after sometime, due to misunderstanding, she has left him. He would further submit that on the instigation of the parents of the defacto complainant, a



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false complaint has been given and based on the false complaint, the petitioner is arrested and is in judicial custody from 03.02.2023. He would further submit that the major part of the investigation is over and it is admittedly a case of consensual relationship between two grown up adults for several years and it is not a case where the petitioner had induced the victim to satisfy his lust alone. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (crl.side) for the respondent would submit that the petitioner, on the assurance of false promise, had abused the victim for 11 years and even after her marriage, the petitioner has harassed her and brought her out from the matrimonial home and later, kept her in a house for three months, where, she became pregnant. Later, on the compulsion of the petitioner, the pregnancy was aborted and thereafter, the petitioner has attempted to marry another woman. When the defacto complainant questioned about the same, the petitioner has abused her, resulting in, the victim attempted to commit suicide. He would further submit that the investigation has been completed and the final report has been filed before the learned Judicial Magistrate No.IV, Puducherry and the same is yet to be taken on file. Hence, he opposed for grant of bail to the petitioner.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record.

6. Taking into consideration of the facts and circumstances of the case, the submissions made by either side and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on her executing a bond for a sum of **Rs10,000/- (Rupees Ten Thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Judicial Magistrate No.IV, Puducherry** and on further conditions that:

[a] 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 learned Judicial Magistrate No.IV, Puducherry on all working days at 10.30 a.m., for a period of two weeks**



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and thereafter, on the date fixed by the learned Magistrate;

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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 abscond, a fresh FIR can be registered under Section 229A IPC.

28.03.2023

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To

1. The Judicial Magistrate No.IV,
Puducherry.
2. The Station House Officer,
Thirubuvanai Police Station,
3. The Central Prison,
Puducherry.
4. The Public Prosecutor, High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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