



Crl.O.P.No.13332 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

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

Crl.O.P.No.13332 of 2023

S.Babu

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Dharmapuri.

(Crime No.16 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.16
of 2023, on the file of the respondent Police.

For Petitioner : Mr.J.Bharathi Raja

For Respondent : Mr.C.E.Pratap,
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.05.2023, for the offences punishable under Sections 417, 376, 406, 420, 323, 506(i) of IPC r/w Section 4 of Women Harassment Act, in Crime No.16 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant, Sivanya is that, she is a widow and the accused is friend of defacto complainant's husband and that there is an illegal intimacy between them and the accused has given false promise to get her widow certificate and Government job, for which he received a sum of Rs.4,60,000/- and had forceful sexual intercourse several times and due to which, the defacto complainant given birth to a female child and when the defacto complainant enquired about the government job, the accused has threatened to kill her and her children and on conducting Panchayat, the accused has returned Rs.1,50,000/- to the defacto complainant and when she requested the petitioner to return the balance amount, the petitioner threatened him with dire consequences. Hence the case.



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3. Learned counsel appearing for the petitioner submitted that the petitioner and the defacto complainant are grown up adults. He further submitted that the defacto complainant was already married person when the marriage was in force, she fell in love with one Jayakumar, who is the friend of the petitioner and she eloped and stayed at Coimbatore, when the defacto complainant had demanded money from the petitioner and the petitioner has given financial assistance to her. Later she had refused to return the money and she has given a false complaint as if the petitioner cheated her to the tune of Rs.4,60,000/-. He further submitted that the petitioner is in custody from 12.05.2023 and he is ready to abide by any stringent conditions that may be imposed by this Court. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the defacto complainant is a widow and the petitioner on the false promise of obtaining widow certificate and securing the government job had cheated the defacto complainant to the tune of Rs.4,60,000/- and under the guise of the same, he had sexual intercourse with her against her will, due to which, she became pregnant and delivered a female child. He further submitted that the accused had returned part



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amount of Rs.1,50,000/- in the presence of the panchayatars.

5. Heard the learned Counsel for the petitioner and the learned Additional Government Advocate (Crl.Side) and perused the materials available on record.

6. At this juncture, the learned counsel for the petitioner submitted that the petitioner, without prejudice to his defence and contention, is ready and willing to deposit a sum of Rs.1,00,000/-, to the credit of crime number before the Court concerned and he has no objection in the amount being disbursed to the defacto complainant. Therefore, he prayed to grant bail to the petitioner.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel for the petitioner and also and also considering the fact that the petitioner has volunteered to deposit a sum of Rs.1,00,000/- to the credit of crime number, this Court is inclined to grant bail to the petitioner with certain conditions.



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8. Accordingly, **the petitioner is directed to deposit a sum of Rs.1,00,000/- to the credit of Crime No.16 of 2023**, without prejudice to his rights and contentions, before the Court concerned and on such deposit, 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 Additional Mahila Court, Dharmapuri**, 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 respondent police everyday at 10.30 a.m, until further orders;

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

[d] the petitioner shall not tamper with evidence or witness 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



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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.

9. Further, the learned Magistrate is directed to disburse the amount
to the injured person, after issuance of notice and proper identification and
acknowledgement.

19.06.2023

drl

To

1. The Additional Mahila Court,
Dharmapuri.
2. The Inspector of Police,
All Women Police Station,
Dharmapuri.
3. The Sub Jail,
Dharmapuri.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA.,J.



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