



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.02.2023

PRESENT

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

CRL.O.P(MD)No.2623 of 2023

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Menaka

...Petitioner/Accused No.3

-vs-

1.The Inspector of Police,
Cumbum (North) Police Station,
Theni District.
(in Cr.No.27 of 2023)

...Respondent/Complainant

2 Mohamed Rabeek

...Petitioner/Intervener
in CRL MP(MD)No.2715 of 2023

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of her arrest by the respondent Police with respect to Cr.No. 27 of 2023.

For Petitioner : Mr.J.Karthikeyan, Advocate

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

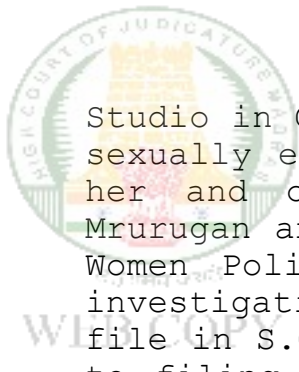
For Intervenor : Mr.M.P.Senthil, Advocate

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 109 and 420 IPC in Crime No.27 of 2023 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Mohamed Rabeek is that the petitioner/A3 was introduced to the defacto complainant through A1 and A2 and on believing the words of the petitioner that she would marry the defacto complainant, he has deposited Rs.50,000/- in the bank account of the petitioner and later she received Rs.10 lakhs from the defacto complainant through A1 and A2 and thereafter, the petitioner cheated him. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the defacto complainant. He would also submit that one Murugan is the owner of Centre for Silk, Theni and the petitioner had established a Designer



Studio in Ganapathy Silks and during such time, the said Mu. had sexually exploited the petitioner on a false assurance of marrying her and on the complaint given by the petitioner against one Mrurugan and 6 others, a case in Crime No.13 of 2022 before the All Women Police Station, Theni, was registered. After completion of investigation, charge sheet has been filed and the same is taken on file in S.C.No.10 of 23 on the file of the Mahila Court, Theni. Due to filing of the case, the petitioner was sent out from the said Ganapathy Silks and the petitioner's business materials and goods were stolen away from the Designer Studio, in respect of which, the petitioner has lodged another complaint in Crime No.174 of 2022 against the Manager and Staff members of Ganapathy Silks.

4. The learned counsel for the petitioner would also submit that the case filed for sexual assault against Murugan and others is ripe for trial and in order to wreck vengeance and to bring the petitioner for settlement, the said Murugan has been filing cases after cases using his friends and relatives. He would also submit that to pressurize the petitioner to withdraw the said case, the present complaint has been given. He would reiterate that the defacto complainant is known to the petitioner as a customer for purchase of sarees and he had sent an amount of Rs.50,000/- to the petitioner on 21.12.2022 for purchase of sarees and later, he had said that the sarees worth of Rs.30,000/- are enough and based on that, the petitioner has repaid Rs.20,000/- to the defacto complainant through on-line and while so, by using his employees one Jeeva and Sathya a false complaint has been given as if the petitioner has honey trapped him and received an amount of Rs.10,50,000/- from him. He would submit that when the defacto complainant has paid a sum of Rs.50,000/- through online transaction and there is no necessity for him to pay Rs.10 lakhs without any proof and absolutely there is no material to show that the defacto complainant has given a sum of Rs.10 lakhs to the petitioner. He would also submit that the petitioner is a victim of circumstances and she was not only exploited by the said Murugan and she is now targeted by unconnected persons who are either the friends or relatives of the said Murugan.

5. He would also submit that without prejudice to her rights and contentions, the petitioner is ready to deposit Rs.50,000/- to the credit of crime number before the court and though the jurisdictional police is the Inspector of Police, Cumbum (North) Police Station, Theni District, he is taking side with the defacto complainant and that the petitioner may be permitted to appear before the All Women Police Station, Periyakulam. He would seek for grant of anticipatory bail.

6. The learned Government Advocate (Crl.side) would submit that the petitioner has induced the defacto complainant and she had by honey trapped the defacto complainant on video call on the assurance



give her Rs.10,50,000/- and had thereafter cheated him. He would oppose for grant of anticipatory bail to the petitioner.

7. Mr.M.P.Senthil, learned counsel appearing for the intervenor/ defacto complainant would submit that the defacto complainant is aged 52 years and his wife was sick for a long time and she died very recently and taking advantage of his loneliness, the petitioner had induced him and had spoken with him through mobile phone for long hours and taking advantage of his weakness and gullibility, she has taken a sum of Rs.10,50,000/- from him. He would strongly object for grant of anticipatory bail to the petitioner.

8.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

9.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Theni, 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 shall deposit Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of Crime No.27 of 2023 before the Judicial Magistrate, Theni and produce proof;

[b] 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.

[c] the petitioner shall report before the All Women Police Station, Periyakulam, everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond 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 Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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

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

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TO

- 1.THE JUDICIAL MAGISTRATE, THENI.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THENI.
- 3 THE INSPECTOR OF POLICE,
CUMBUM (NORTH) POLICE STATION,
THENI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, PERIYAKULAM,

+1 CC to M/s.J.KATHIKEYAN, Advocate (SR-2369[I] dated 15/02/2023)

ORDER
IN
CRL OP(MD) No.2623 of 2023
Date :14/02/2023

RK/CG/SAR-4 (28/02/2023) 4P/7C