



CrI.OP(MD)No.5822 of 2024 and

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

DATED : 17.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CrI.OP(MD)No.5822 of 2024
and
CrI.MP(MD)No.4462 of 2024

C.M.Brooklin : Petitioner / Accused No.1

Vs.

The Inspector of Police,
Nesamony Nagar Police Station,
Nagercoil.
(Crime No.13 / 2024)

: Respondent / Complainant

Blessy Geo V M : Intervenor / Defacto Complainant
in CRL MP(MD) No.4462 of 2024

PRAYER: Petition filed under Section 439 Cr.P.C seeking bail in connection with the case in Crime No.13 of 2024 on the file of the respondent police.

For Petitioner : Mr.T.S.R.Venkatramana, Senior Counsel
for M/s.R.K.Law Firm

For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

For Intervenor : Mr.T.Lajapathi Roy, Senior Counsel
for Mr.G.Anto Prince, Advocate



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The petitioner / first accused in Crime No.13 of 2024 on the file of the respondent Police has moved this application seeking bail. The respondent Police arrested this petitioner on 11.03.2024 in connection with the said case, for the offence u/s.406, 417, 420, 120(b), 376, 384, 506(i) IPC r/w Section 67 of the IT Act, 2000 and was remanded to judicial custody on 12.03.2024.

2.The prosecution case, in a nutshell, is as follows:-

2.1.The defacto complainant got acquainted to the petitioner through social media in the year 2020 and the petitioner introduced himself as a Central Government Advocate. The petitioner also informed that he is a partner in John Timbers, Thoothukudi; owns a Jewelry Shop; and also the owner of Nobel Finance. The petitioner got close with the complainant pretending to be a nice person and made her to believe that her husband is a womanizer. The petitioner also demanded and obtained money from the defacto complainant several times, without the knowledge of the defacto complainant's husband. Later, the petitioner expressed his feelings for the defacto complainant and proposed to marry her. The defacto complainant refused the same. Thereafter, the petitioner threatened the defacto complainant that he would show the photos and videos of the defacto complainant to her husband and in-laws and ruin the marital life. The petitioner blackmailed the



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defacto complainant to come to Chennai once or twice every month. Whenever, she visited Chennai, the petitioner demanded one or two lakhs and if the requested amount was not given, the petitioner threatened to publish the defacto complainant's photos and videos. Therefore, she provided the requested sum without her husband's knowledge.

2.2.The defacto complainant informed about these incidents to her mother and on 13.12.2023, at about 10.30 am, the defacto complainant and her mother came to the petitioner's home and pleaded him not to ruin her life. The petitioner took the complainant and her mother to their home by car and enroute, the petitioner blackmailed her by showing a gun to her head and demanded her to marry him. Witnessing this incident, the complainant's mother fainted. Whenever, she attempted to sever the ties with the petitioner, he refused to leave her and the petitioner, along with his wife, has so far extorted a sum of Rs.21,00,000/- from her through blackmail. Left with no other option, the complainant informed her husband and on his advise, she filed a complaint before the Social Welfare Officer. But the petitioner did not turn up before the Social Welfare Officer and on the other hand, morphed her image and forwarded it to her employee, one Chandhini. On the same day, the petitioner contacted another employee of her, namely, Kavitha and spoken ill about her, causing embarrassment. The petitioner also took photos of her



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husband, without her knowledge, morphed the images and portrayed her husband as a bad person. Therefore, she has lodged the present complaint on 11.02.2024 at about 08.30 pm, before the respondent Police.

3.Learned Senior Counsel appearing for the petitioner made his submissions as follows:-

3.1.The petitioner is a practising Advocate. The defacto complainant is a friend of this petitioner and they got acquaintance through Facebook. She has availed his services from the year 2020 for her college activities, for which, the petitioner has raised a bill. In order to avoid giving money to this petitioner, the complainant has foisted a false complaint before the Social Welfare Officer. In fact, the petitioner was intimidated on 13.12.2023 that they would foist a false case against him and also do away with him. Therefore, the petitioner has lodged a complaint before the Deputy Commissioner of Police, Anna Nagar, Chennai and the same was forwarded to the Inspector of Police, K-3 Aminjekarai Police Station, Chennai. The K-3 Aminjekarai Police have issued a receipt in CSR.No.879 of 2023, dated 27.12.2023 and issued summons to the petitioner for enquiry. After receiving the summons, a false complaint has been lodged as against the petitioner and his wife.

3.2.Since a false allegation has been made as against the petitioner and his wife, they moved an application for anticipatory bail before the Principal Sessions



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Court, Nagercoil, in Crl.MP.No.1230 of 2024. The same was partly allowed on 28.02.2024 and the petitioner's wife was granted anticipatory bail. The application was dismissed as against this petitioner. Thereafter, the case registered by the Inspector of Police, Nesamony Nager Police Station for the offence u/s.406, 417, 420, 120(b), 384, 506(i) IPC r/w Section 67 of the IT Act was transferred to the file of All Women Police Station, Nagercoil.

3.3.He has also filed a typed set of papers with some conversations between the petitioner and the defacto complainant and submitted that both the petitioner and the defacto complainant had moved closely and they had extra-marital affair. He claimed that the petitioner has been used as a male prostitute by the defacto complainant.

3.4.The petitioner was arrested on 11.03.2024 and his laptop and three mobile phones have been recovered from this petitioner. However, the place of arrest and date of arrest has been wrongly mentioned. The investigation agency has also added a hard disk and three pen drives said to have been seized from this petitioner, which, according to the learned Counsel, does not belong to this petitioner. The petitioner does not possess any obscene photos or videos of the defacto complainant, however, he admit the extra-marital affair between him and the defacto complainant. The petitioner has contacted the staff of the defacto



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complainant about the enquiry which is pending before the K-3 Aminjikarai Police Station and to inform the date of enquiry. He has not stated anything other than the same. However, by using their employees, the defacto complainant has foisted a false complaint.

3.5.During the custody, the petitioner was brutally assaulted with a steel pipe and he suffered serious injuries. Therefore, he was referred from the Sub Jail to Aasaripallam Government Hospital on 16.03.2024 for treatment and he was discharged on 22.03.2024. As per the discharge summary, the petitioner is said to have sustained injuries on his left arm, left thigh, neck region, tenderness in the cervical region, ear bleed and partial right ear impairment.

3.6.Learned Senior Counsel has also relied on three couplets from Thirukural – வாழ்க்கை துணைநலம்.

4.The defacto complainant has filed an application in Crl.MP(MD)No.4462 of 2024 to intervene in this bail application.

5.Learned Senior Counsel appearing for the defacto complainant / intervenor made his submissions as follows:-

5.1.The defacto complainant is the Managing Director of a Private Engineering College. The petitioner approached the defacto complainant through Facebook and introduced himself as the Standing Counsel for the Central Government and also



gave a fake identity card. The petitioner's wife introduced herself as a Doctor, though she is only a Nurse. The petitioner also moved closely with the parents of the defacto complainant.

5.2.The petitioner created misunderstanding between the defacto complainant and her husband, by accusing him that he had many girlfriends and is having illicit relationships with several ladies. The petitioner made the defacto complainant to trust him and she became emotionally closer to him.

5.3.The parents of the defacto complainant are residing in Chennai. Whenever the defacto complainant used to visit her parents in Chennai, she and the petitioner took some photos. Subsequently, the petitioner threatened the defacto complainant that he will show the photos to her husband, if she did not co-operate with him. On 27.01.2023, the petitioner called the defacto complainant to Chennai and raped her. Without her knowledge, the petitioner recorded the same in his mobile phone with the help of his wife, the second accused.

5.4.The petitioner used to threaten the defacto complainant by showing her obscene videos and photos. Therefore, the defacto complainant co-operated with the petitioner to have sexual relationship with him on 28.01.2023, 29.01.2023, 30.01.2023, 08.03.2023, 20.05.2023, 26.05.2023, 27.05.2023, 28.06.2023, 12.07.2023, 13.07.2023, 14.07.2023, 12.09.2023, 14.09.2023, 16.10.2023, 17.10.2023, 18.10.2023, 20.11.2023,



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21.11.2023, 22.11.2023. The petitioner also demanded and obtained money from the defacto complainant on several occasions.

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5.5.The petitioner threatened and compelled the defacto complainant to come through video call in nude condition. With fear, the defacto complainant obliged. The petitioner recorded the same and threatened the defacto complainant to give amount, or otherwise, he will share the videos in social media. The defacto complainant gave a sum of Rs.21 Lakh and her 25 sovereigns of gold ornaments to the petitioner. She also told about the incidents to her mother.

5.6.On 11.02.2024, the petitioner forwarded the obscene photos from his mobile phone to the employee of the defacto complainant, namely, Shanthini. Therefore, the defacto complainant filed the complaint before the Nesamony Nager Police Station.

6.When this petition came up for hearing on 16.04.2024 around 11.00 am, learned Additional Public Prosecutor requested time that he is not having instructions. However, considering the facts and circumstances of the case and the materials placed, this Court was about to grant bail to the petitioner. While started dictating the order, a request was made by the learned Additional Public Prosecutor to take up the matter at 04.00 pm. Therefore, the case was passed over and again taken up for hearing at 04.00 pm. At that time, it was reported by the learned



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Additional Public Prosecutor that the petitioner has been detained under Act 14 of 1982 as a sexual offender by the District Collector, Kanyakumari, by order dated 16.04.2024.

7.This Court considered the rival submissions made on either side. This Court has also called for the CD file and perused the same.

8.The petitioner is an Advocate, aged about 37 years. The defacto complainant is a Managing Director of a private Engineering College at Nagercoil, aged about 32 years. Both of them are married, having children. They know each other through Facebook. Both of them are also aware of the fact that they are married and are having children. However, they developed illegal intimacy with some justification that the defacto complainant's husband is a womanizer and he is having affairs with several woman.

9.According to the learned Counsel for the petitioner, the petitioner was used by the defacto complainant as a male prostitute. The defacto complainant admitted that they had sexual relationship and the first incident was in the month of January, 2023 and thereafter, they had frequent relationship. But, according to the defacto complainant, by showing her obscene photos, the petitioner threatened her and therefore, she has co-operated with him for the sexual relationship on 28.01.2023, 29.01.2023, 30.01.2023, 08.03.2023, 20.05.2023, 26.05.2023, 27.05.2023, 28.06.2023,



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12.07.2023, 13.07.2023, 14.07.2023, 12.09.2023, 14.09.2023, 16.10.2023, 17.10.2023,
18.10.2023, 20.11.2023, 21.11.2023, 22.11.2023.

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10.The words of Thiruvalluvar suits every circumstances of life and it gives the answer for all the issues in life.

”சிறைகாக்கும் காப்பெவன் செய்யும் மகளிர்

நிறைகாக்கும் காப்பே தலை. ... 57

மகளிரைக் காவல் வைத்துக் காக்கும் காப்புமுறை என்ன பயனை உண்டாக்கும்? அவர்கள் நிறை என்னும் பண்பால் தம்மைத் தாம் காக்கும் காப்பே சிறந்தது. ... Tamil Explanation

The chief guard of a woman is her chastity.

... English Explanation”

11.When we loose our moral values, we have to face the consequences. The defacto complainant, a woman aged about 32 years and a Managing Director of an Institution, an Engineering College, who is supposed to be of moral guidance for the students studying in the institution, claims that she had extra marital relationship with the petitioner, however, on force. Though the defacto complainant claims that she was raped on 27.01.2023, she has preferred the complaint only in the month of December, 2023 and that too, before the Social Welfare Officer. Only after the complaint lodged by this petitioner before the K-3 Aminjakarai Police Station on



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23.12.2023, the defacto complainant has lodged the present complaint before the respondent Police.

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12.During the course of arguments, the Counsel for the defacto complainant, by referring the provision u/s.376(C) IPC, submitted that the petitioner, by using his fiduciary relationship, has committed the offence and therefore, the offence u/s.376 (C) IPC is made out in this case. But, it is not the case of the defacto complainant.

13.The case was registered on 11.02.2024 and the petitioner was arrested on 11.03.2024. The investigation agency has not even taken this petitioner for police custody and they have not found anything in the investigation. The available materials is not sufficient to constitute the offences mentioned in the FIR. The Hon'ble Supreme Court, in a catena of judgments, has held that consensual affair does not amount to rape.

14.It appears that the Inspector of Police, without collecting any materials and without even taking the petitioner on police custody, has made an undated request to the Superintendent of Police to treat him as a sexual offender and to detain him under Act 14 of 1982. The same was mechanically forwarded by the Superintendent of Police to the District Collector on 29.03.2024. The District Collector has also passed an order of detention on 16.04.2024.

15.A sexual offender is defined u/s.2(g)(g) of the Tamil Nadu Prevention of



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Dangerous Activities of Bootleggers, Cyber Law Offenders, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Sand Offenders, Sexual Offenders, Slum Grabbers and Video Pirates Act, 1982 [Act 14 of 1982] as under:-

“'sexual-offender' means a person who commits or attempts to commit or abets the commission of any offence punishable under sections 354, 376, 376-A, 376-B, 376-C, 376-D or 377 of the Indian Penal Code (Central Act XLV of 1860) or the Tamil Nadu Prohibition of Harassment of Women Act, 1998 (Tamil Nadu Act of 44 of 1998) or the Protection of Children from Sexual Offences Act, 2012 (Central Act 32 of 2012).”

16.No doubt, an order of detention can be based even upon a single ground case. The gravity and nature of the act is the relevant factor to be looked into. The test is that whether the act gives rise to an inference that the person would continue to indulge in similar prejudicial activity. The investigation in this case is in the nascent stage. Looking from any angle, this case does not satisfy the requirements for invoking the detention law. Given the materials available as on date, this Court is prima facie of the view that the allegation levelled does not constitute an offence. However, the officials have acted in such a manner to detain the petitioner as a sexual offender and a detention order has been passed without there being any progress in the investigation.



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17.It is in fact reflected in the order dated 08.04.2024 in Crl.MP.No.2019 of 2024 by the Principal Sessions Judge, Nagercoil, that a proposal has been made to detain the petitioner under Act 14 of 1982.

18.Even the defacto complainant, in the intervening application filed before this Court, has stated as follows:-

“The petitioner has committed heinous crime against several women. So he has to be detained under the Goondas Act. So the Superintendent of Police submitted a request to the District Magistrate to detain the petitioner under Goondas Act. Now the Goondas Proceedings are pending before the District Magistrate, Kanyakumari District and it is a heinous crime committed against women and the investigation is in the initial stage, hence, the petition for bail filed by the first respondent ought to be dismissed.”

19.This Court has also taken cognizance of the averment made in paragraph no.7 of the affidavit in the intervening application of the defacto complainant that she is having properties worth around Rs.100 Crore.

20.Though the case was registered on 11.02.2024, there is no progress in the investigation. This Court has also verified with the CD file. Excepting the complaint, the recovery, the confession statement, the statement recorded u/s.161(3) Cr.P.C.,



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there is no other materials available that this petitioner is indulging in similar offence. However, the detention law has been invoked. The Hon'ble Supreme Court has time and again reiterated that personal liberty of an individual, which is guaranteed under the Constitution, has to be preserved.

21.The detention law has to be invoked only in the rarest of rare cases. However, based on a solitary case, that too at the stage of FIR and without there being any materials, as on date, connecting the petitioner to the alleged crime and that the petitioner is habitually indulging in such offence, a detention order has been passed. From the available materials, this Court is of the view that this detention law has been invoked to satisfy the ego of the defacto complainant. The powers conferred under the statute is not meant for satisfying the pleasure of an individual. This case is a glaring example as to how the officials are misusing the powers conferred on them.

22.The Government is incurring not less than a sum of Rs.1 Lakh in each case for invoking the detention law. The State of Tamil Nadu is the State, which is passing more number of detention orders. The authorities are finding it as the easy way of maintaining law and order by invoking the detention laws. By doing so, it has already been projected that this State is having more Goondas. This has to be avoided. The personal liberty guaranteed under Article 21 of the Constitution of



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India has to be respected. This Court expects the Home Secretary to look into the same and to issue necessary Circulars before invoking the detention laws.

23.Insofar as the present case is concerned, considering the facts and circumstances of the case, the nature of offence, the manner in which the case has been registered and the manner in which the detention law has been invoked, this Court is inclined to grant bail to the petitioner.

24.Accordingly, this criminal original petition is allowed and the petitioner is ordered to be released on bail

i) on the petitioner executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Additional Mahila Court, Nagercoil;

ii) the petitioner and the sureties shall submit a copy of their Aadhar Card or any other identity card issued by the Government in proof of their residential address;

iii) the petitioner shall appear before the respondent Police daily at 10.30 am, until further orders and shall co-operate for the investigation;

iv) the petitioner shall not misuse the liberty granted to him by indulging in any further offence and shall not tamper with the prosecution



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witnesses and he shall be available for the trial as well;

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v) on violation of any of the above conditions by the petitioner, the respondent Police shall move an application for cancellation of bail.

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17/04/2024

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17/04/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

GK

To

- 1.The Judicial Magistrate,
Additional Mahila Court,
Nagercoil.
- 2.Do through the Chief Judicial Magistrate,
Kanyakumari District at Nagercoil.
- 3.The Inspector of Police,
Nesamony Nagar Police Station,
Nagercoil.
- 4.The Officer Incharge,
Sub Jail,
Nagercoil.
- 5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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The Secretary to Government,
Home, Prohibition and Excise Department,
Government of Tamil Nadu,
Secretariat, Chennai.

+2 CC to M/s.G.ANTO PRINCE, Advocate (SR-4494[I] dated 17/04/2024)

+2 CC to M/s.R.K.LAW FIRM, Advocate (SR-4550 & 4579[I] dated 17/04/2024)

+2 CC to M/s.G.ANTO PRINCE, Advocate (SR-4611[I] dated 18/04/2024)

ORDER

IN

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and

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Date :17/04/2024

ED/ /SAR- (17/04/2024) 17P / 13C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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