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Crl.O.P.No.3762 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.3762 of 2025

Althaf Thasif

...Petitioner/Accused No.1

Vs.

State rep by
The Inspector of Police,
All Women Police Station,
Vellore District.

(Crime No.3 of 2025)

... Respondent

PRAYER: This criminal original petition has been filed under Section 482 of BNSS to enlarge the petitioner on anticipatory bail in Crime No.3 of 2025 on the file of the respondent police.

For Petitioner : Mr.John Sathiyan,
Senior Counsel for
Mr.M.Mohamed Riyas

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)
Mr.G.Vinodkumar for
Intervener



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ORDER

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This Criminal Original Petition has been filed by the petitioner, who apprehends arrest at the hands of the respondent, seeking anticipatory bail in Crime No.3 of 2025 registered for the offence under Sections 127(2), 351(2), 351(3), 308(2), 308(3), 310(2) & 70(1) of BNS, 2023 and 4 of the Prohibition of Harassment of Women Act, 2002.

2. The case of the prosecution is that there was a monetary dispute between the defacto complainant and the petitioner; that the petitioner had called the defacto complainant to a Hotel at Vellore on 03.12.2024; that the defacto complainant went to the said hotel along with her mother; that the petitioner and other accused had threatened and received gold jewels from the defacto complainant besides cash and that thereafter, they gave a cool drink to the defacto complainant which made her unconscious and had intercourse with the defacto complainant; that the petitioner also took photographs of the defacto complainant and threatened her of dire consequences, if she disclosed the incident. Hence, the case.



3 (i). Mr.John Sathyan, learned Senior Counsel appearing for the

petitioner would submit that the allegations are false; that even according to the defacto complainant, she had lodged a complaint on 06.11.2024 to the Inspector of Police, Vishnu Kanchi Police Station, Chinna Kanchipuram in which, she had alleged that the petitioner and others came to her house and took away cash of Rs.4.5 lakhs, besides 5 ½ sovereign gold jewels; that thereafter, CSR No.1175 of 2024 was registered and enquiry was conducted and closed; that the defacto complainant had taken treatment in a hospital on 07.11.2024, where she had informed the reason for the injuries as 'self fall from the bike'.

(ii). On 17.12.2024, the defacto complainant sent a complaint to the Deputy General of Police stating that the petitioner and the others gave cool drinks which made her unconscious and had intercourse; that the said allegation is false; that even in the complaint before the Deputy Superintendent of Police, the defacto complainant had not stated about her earlier complaint or the fact that the Inspector of Police, Vishnukanchi Police Station refused to take the complaint on file; that the instant FIR was



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lodged on 06.02.2025 and registered on the same day containing false allegations and submitted that the said complaint is an abuse of process of law and prayed for anticipatory bail.

4. The learned counsel for the defacto complainant however vehemently opposed the grant of anticipatory bail on the ground that the Inspector of Police, Vishnu Kanchi Police Station had refused to register the complaint given by the defacto complainant and had forced the defacto complainant to give the complaint as per his wish; that the said complaint was erroneously closed; that the defacto complainant had therefore sent a complaint to the Deputy General of Police, Tamil Nadu on 17.12.2024 by Post stating the facts and thereafter, the FIR was lodged; and that since the complaint revealed allegations of serious in nature, the custodial interrogation of the petitioner is required and sought for dismissal of the anticipatory bail. The learned counsel for the defacto complainant further submitted that there are previous cases against the petitioner under Section 406 & 420 of IPC and 4(1) & 76(1) of the Chit Funds Act, 1982 before the Tiruvannamalai Police Station, Cheyyar.



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5. Learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the prosecution case and further submitted that the first complaint was closed on 11.11.2024 and that in the said complaint the defacto complainant had stated that the petitioner and other accused went to her house and extorted cash and jewels from her. The learned Government Advocate also produced a copy of the medical certificate and stated that a Doctor had stated in the final opinion that 'there is no evidence of sexual intercourse as per medical reports'.

6. This Court carefully considered the rival submissions and perused the records.

7. The alleged occurrence is said to have taken place on 03.11.2024. Initially, the defacto complainant had lodged a complaint on 06.11.2024 before the Inspector of Police, Vishnu Kanchi Police Station, Chinna Kancheepuram alleging that the petitioner and others had come to her house along with henchmen and took away cash of Rs.4.5 lakhs and 5 1/2 sovereign of gold jewels. A receipt was issued by the police. The said



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complaint was closed after enquiry. The defacto complainant apparently had taken treatment in a hospital at that time. The medical report shows that, she had told the Doctor that she had 'self fall from the bike'. The defacto complainant in her statement to the Doctor had not stated about the alleged forcible sexual intercourse or sexual harassment to the Doctor.

8. Thereafter, on 17.12.2024, the defacto complainant had made the allegations of sexual harassment and rape by the petitioner and other accused in her complaint sent to the DGP by post. Another complaint was lodged before the respondent which was registered on 06.02.2025. After registration of the FIR, the defacto complainant was subjected to medical examination. On perusal of examination, it is seen that the the Doctor had opined that “there is no evidence of sexual intercourse as per medical report”.

9. The allegation of sexual intercourse after making the defacto complainant unconscious, prima facie appears to be an after thought for the following reasons:-



WEB COPY (a) the defacto complainant had not stated about her going to the hotel and about the alleged rape in her first complaint on 06.11.2024.

(b) The instant FIR has been lodged after her earlier complaint was closed which fact has not been disclosed in this FIR. The instant FIR hence also does not state that the defacto complainant was forced to file a complaint as per the wish of the Inspector, Chinna Kancheepuram Police Station.

(c) There is no complaint to the Doctor who first examined the defacto complainant of rape or other sexual harassment when she was first examined on 07.12.2024.

(d) Though the defacto complainant claims that her mother was there, she had also not complained to anybody.

(e) The medical examination report after the lodging of FIR reveals that there is no evidence of sexual intercourse.

However, the aforesaid observations are made only for deciding this petition and would not have any bearing in the trial.



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10. Considering the aforesaid facts and circumstances, though the provisions of Rule 70(1) of BNS, 2023 is mentioned in the FIR, the facts do not reveal the commission of the said offence. This Court is therefore of the view that custodial interrogation of the petitioner is not required for the purpose of investigation. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of copy of this order, before the learned **Judicial Magistrate No.I, Vellore** 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 said Magistrate, on further condition 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;



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[b] the petitioner shall report before the respondent police daily 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 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 absconds, a fresh FIR can be registered under Section 269 B.N.S.

11.03.2025

rkp

Copy to:

- 1.The Inspector of Police,
All Women Police Station,
Vellore District.
- 2.The Judicial Magistrate No.I, Vellore.
- 3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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