



Crl.O.P.No.9616 of 2025

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.04.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.9616 of 2025

Sarathy

...Petitioner/Accused 1

Vs.

State rep by
The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.

(Crime No.235 of 2024)

...

Respondent

PRAYER: This criminal original petition has been filed under Section 483 of BNSS to enlarge the petitioners on bail in Crime No.235 of 2024 on the file of the respondent police.

For Petitioners : Mr.W.Camyles Gandhi

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)



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ORDER

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This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 15.02.2025, seeking bail in Crime No.235 of 2024 registered for the offence under Sections 366, 376D and 392 of IPC.

2.It is the case of the prosecution that the defacto complainant got separated from her husband and was living separately as a single mother with two children; that she got acquainted with the petitioner and she informed the petitioner that since she was in financial need, she pledged her jewels for livelihood; that the petitioner promised that he would obtain a job in a financial Company; that on 05.06.2024, the petitioner handed over Rs.53,000/- and also promised to get a job; that thereafter, the petitioner along with his friend took her in a car and forced her to have sexual intercourse with them and that continuously had sexual intercourse with the defacto complainant and continuously harassed her and thus committed the aforesaid offences.



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3.The learned counsel for the petitioner would submit that the allegations are false; that the petitioner and the defacto complainant had a consensual relationship; that only because the petitioner demanded money paid by him to the defacto complainant, the instant complaint was lodged after a delay; that the alleged occurrence took place on 05.06.2024 and the complaint was lodged only on 18.12.2024 and that in any case, considering the nature of allegations, period of incarceration, further custody is not required and sought for bail.

4.Per contra, the learned Government Advocate (Crl. Side) reiterated the prosecution case and submitted that the defacto complainant had earlier lodged a complaint on 07.06.2024; that when the first complaint was pending, it was transferred to another Police Station for want of jurisdiction and thereafter, the defacto complainant had filed the instant complaint.

5.Heard the learned counsel on either side and perused the materials available on record.



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6.Considering the aforesaid facts, the fact that the allegations *prima facie* discloses a consensual relationship between the petitioner and the defacto complainant, the fact that the dispute is with regard to monetary transactions, the period of incarceration, this Court is of the view that further custody of the petitioner is not required. Hence, 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 their executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **Judicial Magistrate, Additional Mahila Court, Namakkal**, 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;



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[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.

8.It is needless to say that if the petitioner harassed the defacto complainant, it is open to the State to file a petition for cancellation of bail.

02.04.2025

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SUNDER MOHAN, J.



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Copy to:

1.The Inspector of Police,
Nallipalayam Police Station,
Namakkal District.

2.The Judicial Magistrate, Additional Mahila Court, Namakkal.

3.Central Prison, Salem.

4.The Public Prosecutor,
High Court, Madras.

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