



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

Monday, the Twelfth day of January Two Thousand Fifteen

PRESENT

WEB COPY

The Hon`ble Mr Justice P.N.PRAKASH

CRL OP(MD) No.13046 of 2014

KALIDASS ... PETITIONER / SOLE ACCUSED

MAHALAKSHMI ... INTERVENER / DE-FACTO COMPLAINANT

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VADAMADURAI, DINDIGUL DISTRICT.
CRIME NO.16/2014 ... RESPONDENT / COMPLAINANT

For Petitioner : M/S.A.K.AZAGARSAMI, Advocate

For Respondent : M/S.A.P.BALASUBRAMANI, Govt. Advocate (Crl.Side)

For Intervener : MR.T.LENINKUMAR, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 417, 376 and 506(i) IPC in Crime No.16 of 2014 on the file of the respondent police, seeks anticipatory bail.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the State.

3. It is the case of the prosecution that the petitioner is aged about 22 years and the defacto complainant is now aged about 19 years and that they were in love with each other for the last 4 years. It means that at the age of 15, the defacto complainant fell in love with this petitioner. Even according to the defacto complainant, the petitioner took her to various places around Madurai and had sex with her. Now, the petitioner is repudiating everything.



4. Learned counsel for the petitioner, by valiantly relying on the judgments of the Hon'ble Supreme Court in Deepak Gulati vs. State of Haryana, (2013) 7 SCC 675 and Uday vs. State of Karnataka, (2003) 4 SCC 46, would submit that in case of consensual sex, the question of rape does not arise. He also submits that there is promiscuity on her part inasmuch as she volunteered herself to go with the petitioner to various places.

5. Though at first blush, his argument appears to be convincing, but it is seen that the defacto complainant is a village girl and was aged about only 15 years, when she was enticed by the petitioner. Under such circumstances, it is a question of fact to be decided only in the course of trial as to whether it was consensual or not.

6. Learned counsel for the petitioner further submits that earlier this petitioner was granted anticipatory bail in CrI.O.P. (MD) No.11178 of 2014 by this Court. On a perusal of the said order, it appears that no regular case was registered at that time and only crime number not known was given and the petitioner apprehended arrest for the offences under Sections 420, 417 and 506(ii) IPC. Now, a case in Crime No.16 of 2014 has been registered for the offences punishable under Sections 417, 376 and 506(i) IPC.

7. Taking into consideration the gravity of the allegation against this petitioner, I am not inclined to grant anticipatory bail to him. Hence, the Criminal Original Petition is dismissed.

sd/-
12/01/2015

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)

TO

- 1 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, VADAMADURAI, DINDIGUL DISTRICT.
 - 2 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.T.LENIN KUMAR, Advocate SR.No.1663.

ORDER IN
CRL OP(MD) No.13046 of 2014
Date :12/01/2015