



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

Thursday, the Twenty Third day of July Two Thousand Fifteen

PRESENT

The Hon`ble Mr Justice K.KALYANASUNDARAM

CRL OP(MD) No.13166 of 2015

T.PRABAKARAN

... PETITIONER/SOLE ACCUSED

Vs

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.
(CRIME NO.9/2015)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.R.DIWAKARAN Advocate

For Respondent : M/S.K.V.RAJARAJAN, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who is arrayed as sole accused apprehends arrest at the hands of the respondent police for the alleged offences punishable under sections 376 and 312 of IPC, in Crime No.9 of 2015 on the file of the respondent police and hence, seeks anticipatory bail.

2.According to the de-facto complainant, the accused and the de-facto complainant are neighbours and they fell in love with each other from their childhood and the accused promising to marry her, had physical relationship on many occasions and due to which, she also became pregnancy and terminated the same, at the request of the accused and thereafter, the accused refused to marry her.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. The learned counsel further submitted that the de-facto complainant is aged about 32 years and even assuming, without admitting the petitioner had physical relationship with the de-facto complainant, the offence of 376 is not made out. It is further submitted that the complaint was given after 15 years with an ulterior motive. The learned counsel for the petitioner has relied upon a decision of this court reported in (2014) 1 MLJ (Crl) 536 in support of his contention, in which, it has been held as follows:-



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"10. In my considered opinion, this court need not go into this disputed question as to whether they had "live-in-relationship" or not. Assuming that there was such live-in-relationship for four years, the question is whether the same would make out a prima facie case of cheating. It is not a case where a young girl of tender age had been sexually exploited under the false promise of marriage and where the girl had gone to police forthwith. This is a case where the de facto complainant is a fully matured woman of 30 years of age knowing the realities of life. She must be aware of the fact that the society does not approve living in relationship and premarital sex. Though there is no specific legislation to punish the individual who indulges in consensual premarital sex, it is undoubtedly considered as a disorder and anathema to the rich culture the people of this country have inherited and preserved for generations. It is an indiscipline in the eye of the society. The de-facto complainant, having known these facts ought to have elected not to permit the petitioner to sexually exploit her. Having conceded for premarital sex, that too for over a long period of four years, it is too late in the day for the petitioner to lament that she had been cheated. Thus, prima facie, I find a case in favour of the petitioner for grant of anticipatory bail."

4. The learned Government Advocate (Criminal side) appearing for the respondent submitted that by giving false promise, the accused committed rape on the de-facto complainant, who is aged about 32 years.

5. Considering the facts and circumstances of the case and also in the light of the decision cited supra, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate No.1, Ramanathapuram and on his executing 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 learned Magistrate concerned and on further condition that the petitioner shall appear before the respondent police daily at 10.00 a.m until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.



7.The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

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sd/-
23/07/2015

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

TO

1.THE JUDICIAL MAGISTRATE NO.1
RAMANATHAPURAM

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
RAMANATHAPURAM DISTRICT

3.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI

4.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

+one cc to M/S.R.DIWAHARAN, Advocate, SR.No.41393
RL/6 C- 29/7/2015

ORDER
IN
CRL OP(MD) No.13166 of 2015
Date :23/07/2015