



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

Monday, the Twenty Eighth day of November Two Thousand Sixteen
PRESENT

The Hon`ble Mr Justice S.VAIDYANATHAN

CRL OP(MD) No.22151 of 2016

PRASANTH

... PETITIONER/SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
KEEZHASSELVANUR POLICE STATION,
RAMANATHAPURAM DISTRICT
(CRIME NO.40/2016)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.K.C.RAMALINGAM Advocate

For Respondent : MRS.S.PRABHA, Govt. Advocate (Crl. Side)

PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner/Sole Accused, who was arrested and remanded to judicial custody on 24.10.2016 for the offences punishable under Sections 294(b), 447, 506(ii), 307 IPC and Section 4 of TNPHW Act r/w Sections 376 and 511 IPC in Crime No.40 of 2016 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that this petitioner, knowing fully well that the defacto complainant separated from her husband and has been living in her parents' house, entered into her house with wicked mind and pulled her saree. It is further alleged that when she raised alarm, he attempted to commit murder on her with knife.

3. The learned counsel for the petitioner would submit that no such occurrence had taken place as alleged by the prosecution and the complaint is a motivated one. He would further submit that the respondent police have already completed the investigation by altering the offences and they are going to file a charge sheet shortly.

4. Heard the learned Government Advocate (Crl.Side) on the above submission, who would submit that the petitioner has sexually abused the defacto complainant and the investigation of the case has not yet been concluded.

5. Perusal of the FIR and alteration report would go to show that Section 376 and 511 IPC have subsequently added and there is no justification forthcoming as to the inclusion of Section 376 IPC in the FIR by way of alteration report. It is seen that even after



alteration of offences in FIR, the victim lady has not been subjected to medical examination. Therefore, considering the facts and circumstances of the case and also taking into account the fact that the petitioner has been undergoing incarceration since 24.01.2016, this Court is inclined to grant bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions:

- i. 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 learned Judicial Magistrate, Muthukulathur;
- ii. the petitioner is directed to appear before the respondent police daily at 10.30 a.m. until further orders;
- iii. the petitioner shall not leave Tamil Nadu without prior permission of the Trial Court;
- iv. the petitioner shall not tamper with the evidence or witness either during investigation or trial;
- v. the petitioner shall not abscond either during investigation or trial;
- vi. on breach of any of the aforesaid conditions, the 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 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].

sd/-

28/11/2016

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE, MUTHUKULATHUR.
- 2 DO THRO THE CHIEF JUDICIAL MAGISTRATE, RAMANATHAPURAM DISTRICT.
- 3 THE ADDL. PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- 4 THE OFFICER INCHARGE, SUB JAIL, MUTHUKULATHUR.
- 5 THE INSPECTOR OF POLICE, KEEZHASELVANUR POLICE STATION,
RAMANATHAPURAM DISTRICT

+1. CC to M/S.K.C.RAMALINGAM Advocate SR.No.73444

ORDER

IN

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Date : 28/11/2016