



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

Thursday, the Twenty Sixth day of October Two Thousand Seventeen

PRESENT

The Hon`ble Mr.Justice A.M.BASHEER AHAMED

CRL OP(MD) No.12292 of 2017

WEB COPY

NAMACHIVAYAM

... PETITIONER/ACCUSED No.1

Vs

1 STATE REPRESENTD BY,
THE INSPECTOR OF POLICE
VATTATHIKOTTAI POLICE STATION,
THANJAVUR DISTRICT
(CRIME NO.65 OF 2017)

2 RANJITHA

(R2 impleaded as per order of this
Hon'ble Court made in Crl.MP(MD)
9284/17 in Crl.OP(MD)12292/17
dated 11.10.2017 by AMBAJ)

... RESPONDENTS/COMPLAINANTS

For Petitioner : M/S.R.VENKATESAN Advocate

For Respondent : MR.T.MOHAN, Additional Public Prosecutor

For Intervener : MR.B.ANANDAN, Advocate

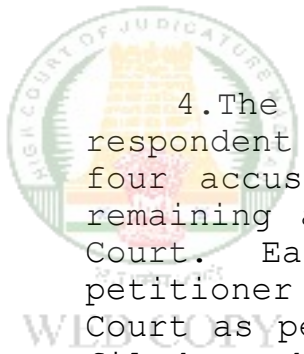
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 294(b), 323, 342, 313, 511, 506(i) IPC r/w Section 4 of Tamilnadu Prevention of Harassment of Women Act in Crime No.65 of 2017 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner herein and the defacto complainant are husband and wife. The marriage between them solemnized on 09.02.2017. The petitioner herein harassed the defacto complainant by saying that she is in black colour and when she became pregnant, the petitioner compelled her to abort, however, when she refused to do so, the petitioner brutally attacked and kicked on her stomach. Due to the same, the pregnancy was aborted.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case.



4. The learned Additional Public Prosecutor appearing for the respondent Police on instruction would submit that totally there are four accused in this case. The petitioner is arrayed as A1. The remaining accused A2 to A4 were granted anticipatory bail by this Court. Earlier anticipatory bail application filed by this petitioner in CrI.O.P.(MD) No. 6949 of 2017 was dismissed by this Court as per the order dated 31.08.2017. The present application is filed on the same set of facts. Investigation is still pending.

5. The learned counsel for the second respondent is present and states that the victim was pregnant and was aborted because of the conduct of the petitioner herein. It is also admitted that as per alteration report Section 313 IPC is also included in this case.

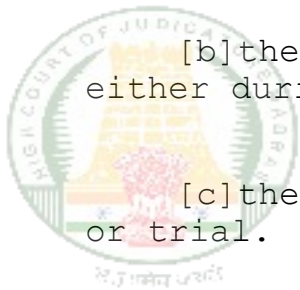
6. The learned Additional Public Prosecutor has not chosen to file any medical report in respect of abortion.

7. The learned counsel for the second respondent has not also chosen to file any records to show that abortion took place because of the occurrence. Since in the alteration report it is stated that on the basis of the further statement of the victim/ defacto complainant, Section was altered into Sections 294(b), 323, 342, 313, 511, 506(i) IPC r/w Section 4 of Tamilnadu Prevention of Harassment of Women Act.

8. The learned counsel for the petitioner states that he did not commit the crime of miscarriage of his wife and the present crime is highly imaginary one and the present complaint was given at the instigation of the family members of the defacto complainant herein.

9. Considering the facts and circumstances of the case and also the fact that no steps have been taken by the respondent police even after the dismissal of the earlier anticipatory bail application by this Court, I am inclined to grant anticipatory bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of 15 days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Pattukottai, 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 learned Magistrate concerned and on further condition that:

[a] the petitioner shall report before the respondent Police daily at 10.30 a.m. until further orders.



[b]the petitioner shall not tamper with evidence or witness either during investigation or trial.

[c]the petitioner shall not abscond either during investigation or trial.

[d]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)**.

sd/-
26/10/2017

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

TO

- 1 THE JUDICIAL MAGISTRATE, PATTUKKOTTAI
- 2 THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR AT KUMBAKONAM
- 3 THE INSPECTOR OF POLICE,
VATTATHIKOTTAI POLICE STATION, THANJAVUR DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.12292 of 2017
Date :26/10/2017

PK/PM-PN/SAR-1/30.10.2017 : 3P/5C