



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

Tuesday, the Fifth day of December Two Thousand Seventeen

PRESENT

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

CRL OP(MD) No.13032 of 2017

E. SURESH KUMAR

... PETITIONER/SOLE ACCUSED

Vs

1 STATE THROUGH,
THE INSPECTOR OF POLICE,
SATHANKULAM POLICE STATION,
TUTICORIN DISTRICT.
IN CRIME NO. 224 OF 2017

... 1st RESPONDENT/COMPLAINANT

2 SELVARANI

... 2nd RESPONDENT/DEFACTO COMPLAINANT

For Petitioner : MR.R.ANAND, Advocate for M/S.P.SAMUEL GUNASINGH

For Respondent-1 : MR.C.MAYILVAHANA RAJENDRAN,
Additional Public Prosecutor

For Respondent-2 : MR.T.A.EBENEZAR, Advocate

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

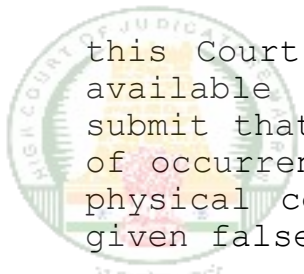
ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent Police for the offence punishable under Sections 417, 406 and 376 IPC in Crime No.224 of 2017 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner by giving false promise to marry the victim had physical contact with her and thereafter, he refused to marry her and also threatened her.

3.The learned counsel for the petitioner would submit that as per the allegations in the FIR, the petitioner had physical relationship with the victim with her consent and hence, the offence under Section 376 IPC does not arise. He would also submit that the petitioner and the victim were living in a rental house.

4.The learned counsel for the intervenor would submit that the petitioner threatened the victim to withdraw the complaint from the police during the pendency of the anticipatory bail petition before



this Court. Except the oral averments, no supporting document is available to substantiate the said allegation. He would further submit that as per the averments made in the FIR, on the first date of occurrence ie., on 14.02.2017, the victim has refused for having physical contact with the accused and thereafter, the accused has given false promise to marry her.

5.The learned Additional Public Prosecutor appearing for the respondent would submit that earlier anticipatory bail petitions in Crl.O.P.(MD)Nos.9016 and 10380 of 2017 were dismissed by this Court and after the dismissal of the earlier petitions, there is no change in circumstances. He would further submitted that the medical report is also received stating that hymen was absent on examination of the victim girl and investigation is still pending since the accused is absconding.

6.Earlier, this Court has passed detailed order in Crl.O.P.(MD) No.9016 of 2017 on 20.07.2017 observing that the custodial interrogation of the accused is necessary in respect of the charges levelled against the petitioner. It is further observed that there is a master and servant relationship between the petitioner and the victim girl and the accused had physical relationship frequently with the victim forcibly by giving false promise to marry her. Further, the petitioner and the victim are having master and servant relationship and that the petitioner is having dominant over the victim at the time of occurrence.

7.Considering the facts and circumstances of the case and also taking note of the fact that after the dismissal of the earlier anticipatory bail petition, there is no change in circumstances and the custodial interrogation of the petitioner is necessary in this case, this Court is not inclined to grant anticipatory bail to the petitioner. Accordingly, this Criminal Original Petition is dismissed.

sd/-
05/12/2017

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

TO

- 1 THE INSPECTOR OF POLICE, SATHANKULAM POLICE STATION,
TUTICORIN DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13032 of 2017
Date : 05/12/2017