



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

Friday, the Third day of February Two Thousand Seventeen

PRESENT

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

CRL OP(MD) No.23393 of 2016

J.MOHAMMED ASARUDEEN

... PETITIONER/ ACCUSED No.1

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (SOUTH), MADURAI
CITY. (CR.NO.17/2016)

... RESPONDENT/COMPLAINANT

For Petitioner : M/S.Veera Kathiravan, Senior counsel for
VEERA ASSOCIATES.

For Respondent : P.Kandasamy, Govt. Advocate (Crl. Side)

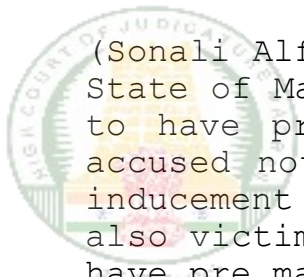
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

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, 376, 506(i) IPC in Crime No.17 of 2016 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution is that A1 and the de facto complainant, aged about 22 years, loved each other and by giving false promise to marry, A1 had physical relationship with the de facto complainant on several time. Hence, the present case is registered as per the direction of this Court in Crl.O.P.(MD) No.20306 of 2016.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that earlier the de facto complainant gave two complaints against the petitioner without mentioning the allegation of sexual harassment or physical relationship with A1 or taking photographs along with A1, however, in the present complaint alone she alleged that she had physical relationship with A1 on many occasions and also took photographs with A1. The learned counsel relying on two decisions in Anticipatory Bail Application No.2221 of 2016 (Akshay Manoj Jaisinghani Vs. State of Maharashtra) and another case reported in 2017(1) RCR 715 Criminal Anticipatory Bail Application No.27 of 2014



(Sonali Alfred Jadhav (intervenor) and Mahesh Balkrishna Dandane Vs. State of Maharashtra) submitted that an educated young girl consented to have pre marital sex with accused on promise of marriage and accused not guilty of rape and promise to marry cannot said to be inducement in such a case. He further submitted that in this case also victim, who is aged about 22 years and a graduate, consented to have pre marital sex with the petitioner / A1.

4.The learned Government Advocate (Crl.side) submitted that totally there are 3 accused and the petitioner is A1, A2 is the father of A1 and A3 is the mother of A1 in this case and A3 was enlarged on bail by this Court in Crl.O.P.No.20899 of 2016 on 07.11.2016. He further submitted that investigation is still pending.

5.Considering the facts and circumstances of the case and also taking note of the fact that there are controversy statement in the complaints of the de facto complainant in respect of physical relationship with A1, 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 No.I, Madurai, 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 weekly once ie., every Sunday 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/-
03/02/2017

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



TO

1 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (SOUTH), MADURAI
CITY.

2 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH

+1. CC to M/S.VEERA ASSOCIATES Advocate SR.No.6141

ORDER

IN

CRL OP(MD) No.23393 of 2016

Date :03/02/2017

KK-JM-SAR.1-09.02.2017-3P-4C