

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Twenty Seventh day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.5606 of 2018

M.SENGUTTUVAN

[PETITIONER / ACCUSED]

Vs

STATE REP BY,
INSPECTOR OF POLICE,
W-23 ALL WOMEN POLICE,
ROYAPETTAH POLICE STATION,
CHENNAI.

[RESPONDENT]

S.SRIVIDYA

[PETITIOENR/DEFACTO COMPLAINANT]

**Ordered as per the order of this court dated 27/06/2018
CRL.MP.NO.3292/2018 IN CRL.OP.NO.5606/2018**

For Petitioner : M/S.S.PRABUDOSS Advocate

For Respondent : MR. C.IYYAPPARAJ, ADDL. PUBLIC PROSECUTOR

For Intervener : M/S.R.MUNIYAPPARAJ Advocate

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

ORDER : The Court Made the following order :-

The petitioner seeks anticipatory bail in Crime No.1 of 2018 registered by the respondent police for the offence punishable under Sections 417, 420, 376, 496 and 506(ii) of IPC.

2. The case of the prosecution as per the de-facto complainant Srividya is that she was married earlier on 09.04.2010 and that she has one girl child. Thereafter, due to misunderstanding between her and her husband, they have filed HMOP.No.145/2014 before the Sub Court, Vellore, and the marriage was dissolved. Thereafter, while she was living at Tirupathur, she got acquainted with the petitioner and that the petitioner, on the promise of marrying her had intimate relationship with her and also had sexual intercourse with her. Thereafter, she got pregnant and she had compelled him to marry her and that during November, 2015, the petitioner married her at Assumption Church, by exchanging of garlands and rings. Subsequently, they continued the relationship. While so, on 01.02.2017 they had taken a house and were living together and thereafter, within one month the petitioner has absconded and gone

away. When she contacted him over telephone, the petitioner told that if she abort the child, he will come. Based on the compulsion, she has aborted her pregnancy. Thereafter, she came to know that the petitioner was getting ready to marry one Vinu. The further allegation is that when she had asked him to come and meet her, the petitioner had come and quarrelled with her and beaten her and also threatened to do away with her.

3. The learned counsel for the petitioner would submit that the defacto complainant is a divorcee and that there was a consensual relationship between them. He would submit that on 25.12.2017, coming to know that the petitioner was going to marry one Vinu, the defacto complainant has sent a notice to the petitioner and to the girl with whom his marriage was fixed stating that there was a marriage between the petitioner and the defacto complainant and threatened of legal action. The petitioner, by a reply notice dated 29.12.2017, denied the marriage and also sent a reply stating that notice was sent only for the purpose of extracting money by blackmailing and thereafter, she had kept quiet and that a false complaint has been given on 20.01.2018 stating that the petitioner cheated her.

4. The learned counsel for the intervenor strongly opposed the grant of anticipatory bail stating that the defacto complainant is a divorcee, having a child and on the promise of marriage, the petitioner had sexually intercourse with her and thereafter, she got pregnant and he compelled her to abort stating that if only she abort the child, he will marry her and later cheated her and he has got married with another woman and when she questioned, the petitioner had assaulted her and also threatened her with dire consequences.

5. The learned Additional Public Prosecutor would submit that the petitioner is a divorcee and that the petitioner, on the promise of marry her, had sexual intercourse with her and thereafter, married her and also while the marriage was in subsistence, married another girl.

6. I have gone through the FIR. Taking into consideration the facts of the case and the submissions made by the counsels, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned XVIII Metropolitan Magistrate, Saidapet, Chennai-15, 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 said Magistrate, on further condition that:

[a] if the petitioner failed to surrender before the said Magistrate within a period of fifteen days from the date of receipt

of a copy of this order, this Order shall stand automatically cancelled.

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

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

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

[e] 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

27/06/2018

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE METROPOLITAN MAGISTRATE,
NO.XVIII SAIDAPET,CHENNAI-15

2 THE CHIEF METROPOLITAN
MAGISTRATE,EGMORE[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-23 ALL WOMEN POLICE,
ROYAPETTAH POLICE STATION, CHENNAI.

+1 CC to M/S.S.PRABUDOSS Advocate on payment of necessary charges SR.NO. 11819

CRL OP.5606/2018

Date :27/06/2018

RD 05/07/2018