



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

Tuesday, the Twentieth day of February Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.2613 of 2018

SELVAKUMAR

... PETITIONER /1st ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUMANGALAM, MADURAI DISTRICT.
(CRIME NO.3 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.S.VELLAICHAMY, Advocate

For Respondent : M/S.K.SUYAMBULINGA BHARTHI, Govt.Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner /A1, who was arrested and remanded to judicial custody on 24.01.2018 for the offences punishable under Sections 294 (b), 376 and 506(ii) I.P.C., in Crime No.3 of 2018 , on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and the defacto complainant had love with each other from the year 2010 onwards. The petitioner promised the defacto complainant to marry her and they had physical intercourse from the year 2010 onwards. But, the petitioner failed to marry the defacto complainant, subsequently, he married another lady, who is arrayed as A2 in this case. Ultimately, the petitioner and his family members threatened the defacto complainant and abused her by using filthy language. Hence, a case has been registered for the above said offences.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person. He has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the petitioner is in judicial custody from 24.01.2018 onwards. Hence, he prays for bail.

4.The learned Government Advocate(Crl.Side) appearing for the State submitted that totally there are 4 accused in this case. The petitioner herein is arrayed as A1. The defacto complainant and the



petitioner fell in love with each other from the year 2010 onwards. On false promise made by the petitioner, there was sexual relationship between them on many times. But, the petitioner cheated the defacto complainant and married another lady. He further submitted that medical examination of the petitioner is not completed. According to him, investigation is at premature stage.

5. The submissions made by the learned counsel appearing on either side are considered. It is alleged that the petitioner herein being the friend of the defacto complainant made intercourse with the defacto complainant from year 2010 onwards. While so, the marriage between the petitioner and an another lady was solemnized in the year 2013. Now, as per the version of the defacto complainant in the complaint, subsequent to the marriage of the petitioner, the petitioner herein continuously cohabited with the defacto complainant. So, the offence of rape committed by the petitioner only after getting consent from the victim girl. Now, the petitioner is in judicial custody from 24.01.2018 onwards. Therefore, considering the facts and circumstances of the case and also considering the period of incarceration, further custodial interrogation of the petitioner may not be necessary for completing the investigation. Hence, 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.25,000/- (Rupees Twenty Five Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate, Thirumangalam.

(ii) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

(iii) the petitioner shall not tamper with the evidence or witness either during investigation or trial;

(iv) the petitioner shall not abscond either during investigation or trial;

(v) 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/-

20/02/2018

/ TRUE COPY /



TO

1. THE JUDICIAL MAGISTRATE, THIRUMANGALAM.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

4. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
THIRUMANGALAM, MADURAI DISTRICT.

5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.VELLAICHAMY Advocate SR.No.2766

ORDER

IN

CRL OP (MD) No.2613 of 2018

Date : 20/02/2018

MS/CM/SAR.3/20.02.2018/3P.7C