



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

Tuesday, the Twentieth day of March Two Thousand and Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP (MD) No.4355 of 2018

ARUNKUMAR

... PETITIONER / ACCUSED NO.1

Vs

THE STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
IN CR.NO. 5/2018.

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.M.PITCHAI MUTHU, Advocate

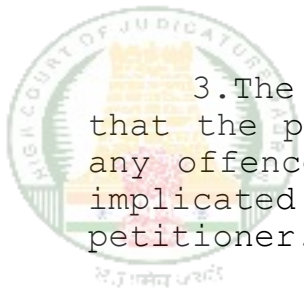
For Respondent : Mr.K.SUYAMBULINGA BHARATHI,
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner/Accused No.1, who was arrested and remanded to judicial custody on 19.02.2018 for the alleged offences punishable under Sections 294(b), 417, 420, 376 and 506(i) of IPC., r/w. Section 4 of Tamilnadu Prohibition of Harassment of Women Act, 2002, in Crime No.5 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant and the petitioner are relatives and they developed love affair. Subsequently, the petitioner herein made false promise to marry her and had physical relationship with her from the year 2012, due to which she became pregnant. Thereafter, at the instigation of the petitioner, the defacto complainant aborted her pregnancy two times. Now, the petitioner refused to marry her, when the same was questioned by her, the petitioner and other accused abused her by using filthy language and threatened her with dire consequences. Hence, the present case has been registered for the above said



3. The learned counsel representing the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal side) appearing for the respondent on instructions, would submit that the investigation is in progress.

5. The submissions made by the learned counsels appearing for either side are considered. The petitioner is in judicial custody from 19.02.2018 to till date. As per the case of prosecution, at the time of alleged occurrence the petitioner is aged about 26 years and the victim girl is aged about 30 years. Now, on going through the facts of the case, it would appear that the petitioner after made promise to the victim girl, he had sexual intercourse with her after getting her consent. Due to that happenings, the victim girl got pregnant and thereafter at the request of the petitioner, the same was aborted. Eventhough, the nature of offence committed by the petitioner is a heinous one, considering the fact that the victim girl is aged about 30 years and the petitioner is aged about 26 years, custodial interrogation may not be necessary for completing the investigation. Moreover, since the petitioner is in judicial custody for the past one month, further detention is not required for filing final report. Hence, considering the above facts and circumstances, this Court is inclined to grant bail to the petitioner with some conditions. 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 No.II, Srivilliputhur, Virudhunagar District;
- (ii) the petitioner shall report before the respondent police, daily at 10.00 a.m., until further orders;
- (iii) the petitioner shall not tamper with evidence or witness either during investigation or trial;
- (iv) the petitioner shall not commit any offence while on bail;
- (v) the petitioner shall not abscond either during investigation or trial;
- (vi) on breach of any of the aforesaid conditions, the bail granted to the petitioner shall stand automatically cancelled and the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in



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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/-
20/03/2018

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

TO

- 1 THE JUDICIAL MAGISTRATE NO-II,
SRIVILLIPUTHUR,
VIRUDHUNAGAR DISTRICT.
 - 2 DO THOUGH THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR AT SRIVILLIPUTHUR.
 - 3 THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
 - 4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
 - 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.
- +1. CC to M/S.M.PITCHAI MUTHU, Advocate SR.No.4445.

ORDER
IN
CRL OP(MD) No.4355 of 2018
Date :20/03/2018

SDS/PN/SAR.2/20.03.2018/3P/7C