



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

Wednesday, the Twelfth day of December Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21755 of 2018

M.MANIKANDAN

... PETITIONER / SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VALLIYOOR,
TIRUNELVELI DISTRICT.
(CRIME NO.381/2018)

... RESPONDENTS / COMPLAINANT

For Petitioner : MR.T.THRUMURUGAN Advocate

For Respondent : MR.S.CHANDRASEKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner/sole Accused, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 6 r/w 5(i) of Protection of Children from Sexual Offences Act, 2012 in Crime No.381 of 2018, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and the victim were studying in the same school. The victim is 17 years old and studying 12th Standard. Right from the schooling, there have been love affair between them. This affair had continued, even when the petitioner went to the College. During this period, at the instance of the victim, the petitioner had given a mobile phone to the victim, she was keeping the same secretly. One such occasion, the victim's mother had found the same and handed over it to the petitioner's house. After some time, again at the instance of the victim, the petitioner had purchased another mobile phone. This time, the phone was destroyed by the victim's parents. Thereafter, she was sent to her grandparents's home. Thereafter, at the instance of the victim, another mobile phone was purchased. Through that mobile, they were in instant touch. Due to the pressure of the victim, the petitioner took her to Chennai and various other places. But the victim has not attained majority.



3. The learned counsel appearing for the petitioner would submit that the petitioner was compelled to act as per the wishes of the victim and he has not committed any offence. Hence, he prayed for anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent, on instructions, would submit that the petitioner is 17 years old and she is capable of understanding what is going around her and further, she is a person of senses. Subsequent acts seem to be consensual in nature. Only due to the instance of the victim's parents, the above case came to be registered. The victim appeared before the Judicial Magistrate on 17.09.2018, wherein, she had categorically stated the entire happenings.

5. Considering the above submission and also considering the fact that the petitioner had taken away the defacto complainant only as per her wish, this Court is inclined to grant anticipatory bail to the petitioner, with certain conditions;

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Mahila Court, Tirunelveli 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 learned Magistrate concerned and on further condition that;

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled.

[b] the petitioner shall report before the respondent Police as and when required for interrogation.

[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/-
12/12/2018

/ TRUE COPY /

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



TO

1 THE JUDGE,
MAHILA COURT,
TIRUNELVELI.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, VALLIYOOR,
TIRUNELVELI DISTRICT.

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

+1. CC to M/S.T.THRUMURUGAN Advocate SR.No. 23147

ORDER

IN

CRL OP (MD) No.21755 of 2018

Date :12/12/2018

JM/JC/SAR 4/17.12.2018/3P/5C