



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

Friday, the Twenty First day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.22270 of 2018

SAHAYA PRATHESTON,

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
COLACHEL, KANYAKUMARI DISTRICT.
(CRIME NO.19/2018)

... RESPONDENT / COMPLAINANT

For Petitioner : MR.B.JAMEEL ARASU Advocate

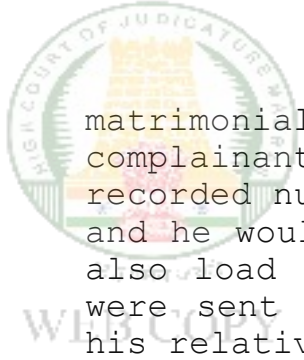
For Respondent : MR.K.SUYAMBULINGA BHARATHI,
Government Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioners, who was arrested by the respondent police on 09.11.2018, for the offences punishable under Sections 376, 354(c), 506(i) of IPC., and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, in Crime No.19 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is the victim, who is married and got two children. The defacto complainant's husband was working in abroad. The accused is the relative of the defacto complainant's husband, used to help her. On 09.09.2018, when the children were playing outside the house and inside the compound, at about 6.00 p.m., the victim, while coming out from the bathroom, after her bath, the accused said to have pulled out the towel worn by her, pushed and rapped her. In which, she has sustained small injuries. The accused said to have threatened that, if she informed the same to her husband or lodges a complaint to the Police, the life of the two children would be done away. Fearing safety and security, she was keeping quite. Using the same, the accused had been assaulting and having forced sex with her on several occasions. Thereafter, he had infused these activities, the accused had forced the victim to come out of her



matrimonial life and lead a life with him, which the defacto complainant refused, for which, the accused threatened that he recorded nude and semi-nude photos of the victim in his mobile phone and he would send it to the husband of the victim and relatives and also load it to the Internet. On 26.10.2018, the said photographs were sent by the accused to the defacto complainant's husband and his relatives.

3. The learned counsel appearing for the petitioner would submit that it was the defacto complainant, who was forced in such activities, which was warned by the elders in the family and when the petitioner wants to part away and taking grouse over the same, the defacto complainant had lodged the false complaint against the petitioner.

4. The learned Government Advocate (crl.side) appearing for the respondent, on instructions, would submit that the act of the accused is not condonable and it is the petitioner raped her forcibly on several occasions and taking nude photographs and using the same, as a threat, and also life and safety of the children, had been committing rape on her, on a regular basis. Finally, when the defacto complainant warned him for these acts, the petitioner had publicised the photographs, by sending it to various persons and also loading it to social media thereby, the entire life of the defacto complainant has been put in jeopardy. Investigation in this case is in crucial stage. He had also produced Case Diary before this Court., for perusal. He vehemently opposed for grant of bail to the petitioner.

5. I have heard the learned counsels appearing on either side and perused the materials available on record, including the Case Diary.

6. Considering the rival submissions made on either side and on perusal of the materials produced, it is seen the act of the petitioner is a case of forced rape, which he has been continuously carrying on and the investigation is in crucial stage, this Court is not inclined to grant bail to the petitioner. Hence, this Criminal Original Petition stands dismissed.

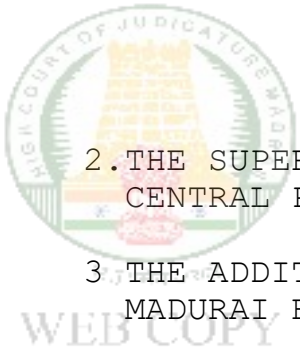
sd/-
21/12/2018

/ TRUE COPY /

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

TO

1 THE INSPECTOR OF POLICE,
<https://hcservices.ecourts.gov.in/hcservices/>
ALL WOMEN POLICE STATION,
COLACHEL, KANYAKUMARI DISTRICT.



2. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

ORDER

IN

CRL OP (MD) No.22270 of 2018

Date :21/12/2018

AE/PN/SAR1/07.01.2019/3P/4C