



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

Monday, the Seventeenth day of December Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.20990 of 2018

BALAMURUGAN

... PETITIONER / SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
RAJAPALAYAM.
CRIME NO.21 OF 2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.R.NIRESH KUMAR Advocate

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

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

ORDER : The Court Made the following order :-

The petitioner, who was arrested by the respondent police on 11.10.2018, for the offences punishable under Sections 417, 294(b) and 506(i) of IPC., and Sections 5(1), 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.21 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had sexual intercourse with the victim girl, who is a minor, on several times, on a false promise to marry her. When the victim asked him to marry her, the petitioner scolded her by using filthy language and criminal intimidation on her. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a College going student, studying B.A (English) second year in "Sree Balakrishna College of Arts & Science", at Rajapalayam. The petitioner and the victim-girl are hailing from same place and neighbours and were in love with each other for the past two years. The victim, who is a 8th Std., drop out, was working in a tailoring shop. He would further submit that the petitioner said to have made physical relationship with the victim-girl. When the victim-girl asked the petitioner to marry



her, he refused the same. Hence, based on the complaint of the victim girl, the aforesaid case has been registered against the petitioner and the petitioner is in incarceration from 11.10.2018. Hence, he prayed for bail in favour of the petitioner.

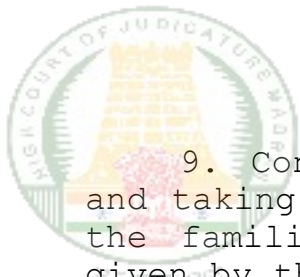
4. The learned Additional Public Prosecutor appearing for the State would submit that the petitioner had sexual intercourse with the victim girl on several times, who is a minor, on a false promise to marry her. When the victim asked him to marry her, the petitioner scolded her by using filthy language and criminal intimidation on her. He would further submit that investigation in this case is almost over.

5. I have heard the learned counsel appearing on either side and perused the materials available on record.

6. Admittedly, the petitioner and the victim were in love affairs for quite some time. On 19.09.2018, the petitioner called the victim to a Church in their place and it is stated that they had physical relationship, though the victim was minor she had submitted herself due to love and infatuation. Thereafter, when the petitioner was asked to marry the victim, he refused and even victim's parents were threatened. Thereafter, a complaint has been given against the petitioner and a case has been registered against the petitioner in in Crime No.21 of 2018, for the aforesaid offenses.

7. Due to their impressionable age, they got provoked and there can be a curious and very compelling demand of the body to get into such kind of relationship. No doubt, sexual urge differs from person to person and there cannot be any mathematical formula in respect of sexual behavioural pattern of teenagers, as biologically whenever the child turns into puberty, the child starts understanding his or her sexual needs. The nature of response depends on the upbringing, peer pressure, how civilized the environment is etc.

8. Admittedly, in this case, the petitioner and the victim are first generation pupils, who have reached to the level of going to college and school, though both their parents are uneducated and doing menial works. Since the petitioner and the victim families are residing in the same area, not much of difference in their social, educational and financial status, living in a community and on intervention of the elders in the family, the parents of the petitioner agreed to conduct the marriage between the petitioner and the victim-girl, when they reached the attainable age. The parents of the petitioner and victim-girl were present in the court and they filed affidavits in conformity to the above. This Court perused the statement made under Section 164 of Cr.P.,C., by the victim, wherein it was found that the grievance of the victim-girl seems to be the petitioner's refusal to marry her. The A.R. Report is in conformity with the victim girl's voluntary submission.



9. Considering the above facts and circumstances of the case and taking into consideration the social and economic background of the families of petitioner and victim-girl and the undertaking given by the parents of the petitioner by way of filing an affidavit to the effect that they agreed to conduct the marriage between the petitioner and the victim-girl, when they reached the attainable age and the victim-girl was already subjected to medical examination and the investigation is almost over, this Court is inclined to grant bail to the petitioner, with certain conditions;

10. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Fast Track Mahila Court, Srivilliputhur, and on further condition that:

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

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

[c] 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]**.

[d] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

[d] Since the petitioner is a college student, the petitioner may be summoned for investigation by the respondent Police, if needed.

sd/-
17/12/2018

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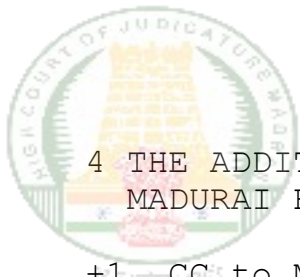
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE FAST TRACK MAHILA COURT,
SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, RAJAPALAYAM.

3 THE OFFICER INCHARGE,
BORSTAL SCHOOL, MELUR, MADURAI.



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

+1. CC to M/S.R.NIRESH KUMAR Advocate SR.No. 23458

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ORDER

IN

CRL OP (MD) No.20990 of 2018

Date :17/12/2018

JM/PN AC/SAR 1/18.12.2018/4P/6C