



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

Friday, the First day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP (MD) No.1560 of 2019

SAMESHWARAN

... PETITIONER / SOLE ACCUSED

Vs

STATE REP. BY
THE INSPECTOR OF POLICE,
UTHAMAPALAYAM POLICE STATION,
THENI DISTRICT
(IN CRIME NO.200 OF 2018)

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.R.BALAMURUGANANTHAM Advocate

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

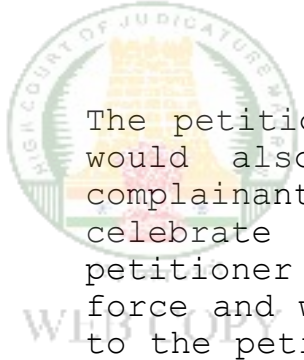
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 448, 506(i) of IPC and Section 12 of Protection of Children from Sexual Offences Act, 2012 in Cr.No.200 of 2018 seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant is the mother of the victim. The victim is studying 8th standard. The petitioner herein used to pass lucid comments on the victim wherever he saw her in the road and whenever she goes to school. Considering the victim's safety and security the defacto complainant had not given any complaint earlier. On 19.05.2018 at about 03.00 p.m when the victim was alone at her house the accused had entered into her house and had pulled her by the hand and attempted to mis behave with her. When the victim shouted the accused had shut her mouth and had also threatened her asked herto be in touch with him and gave his mobile number.Hence she preferred a complaint.

3. The learned counsel for the petitioner would submit that the petitioner is serving in Indian Army for the past six months.



The petitioner and the defacto complainant are close relatives. He would also submit that prior to the occurrence the defacto complainant's husband Amsathkumar demanded the petitioner to celebrate the occasion with military drinks even though this petitioner had nothing and explained as he is new entrant to the force and within six months military drinks will not be supplied to the petitioner and hence there was a quarrel, in which free flow of blows and exchange of words due to which a false case has been foisted against the petitioner.

4. The learned Government Advocate(Crl.Side) would submit that the petitioners have earlier complaint and the present case has been registered thereafter. Further he has also produced 164 Cr.P.C statement of the victim, from which it is seen that the petitioner herein in an inebriated condition has entered into the house of the victim shut her mouth and when she attempted to raise the alarm he shut her mouth and gave the mobile number of him and asked her to be in touch with her.

5. Considering the submissions made by the learned counsel on either side and on perusal of the materials, it is seen that the alleged incident took place on 19.05.2018 and the complaint was lodged before the respondent police on 22.05.2018. Further for the delay in complaint it is stated that the victim's mother was in hospital from 19.05.2018 and she came to know the incident later and thereafter she lodge a complaint. From the 164 statement, it reveals that the victim's mother was very much available in her shop. It is also seen that earlier to this complaint, a complaint has been lodged by the victim's mother and there seems to be some injury in the scene of occurrence and the respondent police had gone to the hospital and recorded the statement and thereafter complaint was filed and also taking into consideration the facts of the case and the submissions by learned counsels, this Court inclined to grant anticipatory bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate, Uthamapalayam, Theni District, 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 said Magistrate, on further condition that:

[a] if the petitioner fail 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 daily at 10.30 a.m for a period of two weeks as and when required for interrogation.

<https://hcservices.ecourts.gov.in/hcservices/>

[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/-
01/02/2019

/ TRUE COPY /

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

TO

- 1 THE JUDICIAL MAGISTRATE
UTHAMAPALAYAM, THENI DISTRICT
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
THENI
- 3 THE INSEPCTOR OF POLICE
UTHAMAPALAYAM POLICE STATION,
THENI DISTRICT
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

+1. CC to MR.R.BALAMURUGANANTHAM Advocate SR.No.2211

ORDER
IN
CRL OP(MD) No.1560 of 2019
Date :01/02/2019

MSI/PN/SAR-III/08.02.2019-3P/6C