



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

Friday, the First day of February Two Thousand Nineteen

PRESENT

WEB COPY

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.381 of 2019

M.MATHIYALAGAN

... PETITIONER/SOLE ACCUSED

Vs

STATE REP.BY,
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TALLAKULAM, MADURAI CITY,
MADURAI.

IN CRIME NO. 2 OF 2019

... RESPONDENT/COMPLAINANT

VARSHA

... PETITIONER/INTERVENER/
DEFACTO COMPLAINANT

For Petitioner : MR.A.JAYARAMACHANDDRAN, Advocate

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

For Intervener : MR.UDHAYAKUMAR, Advocate

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 offences punishable under Sections 5(1) and 6 of POCSO Act and 506(i) of IPC in Crime No.2 of 2019, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant and the petitioner was in love each other and on a false promise of marriage, the defacto complainant had physical relationship with the petitioner. However, the petitioner married another girl and when the defacto complainant questioned the same, the petitioner issued life threat to her. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the defacto complainant met the petitioner at a relative's marriage. Being a relative, the petitioner also conversed with her in an usual manner. The defacto complainant had wrongly developed love affair with the petitioner in her mind and expressed the same to the petitioner. The petitioner in turn refused her proposal and also



explained the age differences. In the above said circumstances, the victim was suddenly found missing since 29.06.2018. Hence, the mother of the defacto complainant lodged a complaint at Tirunagar Police station and filed a petition in H.C.P(MD) No.981 of 2018 before this Court seeking to produce the detainee and set her at liberty. A discreet enquiry conducted by the Inspector of Police, Tirunagar Police Station and revealed that the de facto complainant had gone to Chennai on her own volition. Thereafter, the Habeas Corpus petition has been closed on 12.07.2018. He would further submit that the petitioner's parents arranged his marriage with one K.Kartheeswari and the same was solemnized on 02.12.2018 at Sivagangai. Since the defacto complainant was not happy with the same, she had lodged the above said false complaint.

4.The learned counsel appearing for the intervener would submit that defacto complainant is a minor. The petitioner gave a false promise to marry her and took her to Ooty and various places. Now he had married with other lady and thereby, cheated the defacto complainant and also using her. Further defacto complainant had stated in the HCP order, dated 12.07.2018 she was returned to the parental home, as her parents had also agreed that she may marry, as per her wish and may also pursue her education, but the petitioner had cheated the victim.

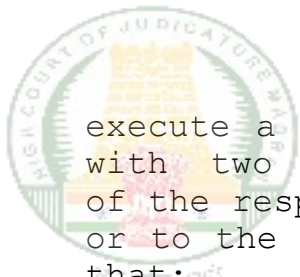
5.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the photographs of the petitioner as well as the victim, have been produced and the victim has been subjected to medical examination. He would further submit that

she has been examined by the learned Judicial Magistrate and her statement also recorded under Section 164 Cr.P.C., on 21.01.2019. It is seen that they have travelled to various places from time to time and the petitioner had been regularly visiting her hostel.

6.The petitioner undertakes that he will appear for medical examination and also report before the respondent police for a period of two weeks. The defacto complainant also undertakes she will appear for physical examination and other examination as required to the investigation. If the undertaking of the parties are violated, anticipatory bail granted to the petitioner stands cancelled automatically.

7.Considering the facts and circumstances of the case and also considering the undertaking of the parties, this Court is inclined to grant anticipatory bail to the petitioner.

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Additional District and Sessions Judge, (Mahila Court), Madurai 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 respondent police or the police officer who intends to arrest or 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 and thereafter, 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/-

01/02/2019

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

TO

- 1 THE ADDITIONAL DISTRICT AND SESSIONS JUDGE
(MAHILA COURT), MADURAI
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, TALLAKULAM,
MADURAI CITY, MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

- +1. CC to MR.A.JAYARAMACHANDDRAN, Advocate SR.No.2200
+1. CC to MR.R.UDHAYAKUMAR, Advocate SR.No.2257

ORDER IN
CRL OP(MD) No.381 of 2019 AND
Date :01/02/2019