



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

Friday, the Twelfth day of April Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.5494 of 2019

KATHIRKAMU

...PETITIONER /SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THENI, THENI DISTRICT.
(CRIME NO.7/2019)

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.VEERA.KATHIRAVAN, Senior Counsel for
Mr.A.MITHUN CHAKRAVARTHI, Advocate

For Respondent : Mr.A.NATARAJAN, State Public Prosecutor
Assisted by Mr.C.CHANDRASEKAR,
Additional Public Prosecutor

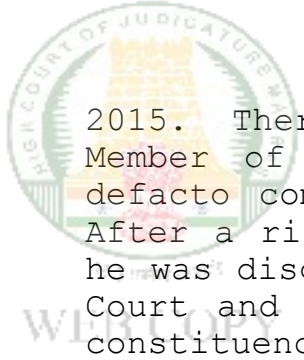
PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

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 Sections 417, 376 and 506 (i) of IPC, in Crime No.7 of 2019, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is a married woman. She has one female child. The petitioner is a practicing Doctor and also former Member of Legislative Assembly. In the year 2015, the defacto complainant went to his hospital along with her father for treatment. At that time, the petitioner injected a sedative injection to the defacto complainant. Thereafter, the petitioner sexually abused the defacto complainant and videographed the same and thereafter, he threatened the defacto complainant by showing that video and continuously abused the defacto complainant.

3.The learned counsel appearing for the petitioner would submit that the petitioner has been falsely implicated in this case and he has nothing to do with the alleged offence. He would further submit that the offence is said to have taken place in the year



2015. Thereafter, in the year 2016, the petitioner was elected as a Member of Legislative Assembly on behalf of AIADMK Party. The defacto complainant was instigated by a Member of the same party. After a rift in the Party, the petitioner joined another group and he was disqualified. His disqualification was also confirmed by the Court and by-election is going to be conducted in that particular constituency and he is also a candidate contesting in the very same constituency under another faction namely, AMMK. In order to prevent his Victory, the ruling party has induced the defacto complainant to give a false complaint against the petitioner.

4.The learned Public Prosecutor appearing for the respondent police would submit that now the election process is going on and the petitioner is also contesting in the said election. Since the petitioner is involved in a crime against Woman, which is heinous in nature, if he is enlarged on anticipatory bail, it would be possible to tamper with the evidence and therefore, the learned Public Prosecutor vehemently opposed grant of anticipatory bail to the petitioner.

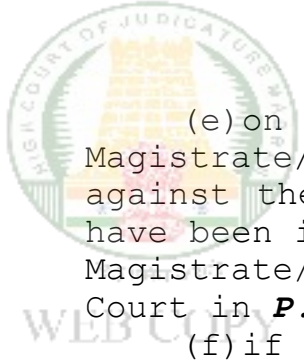
5.Considering the facts and circumstances of the case and considering the fact that the occurrence is said to have taken place in the year 2015, however, after four years, the de-facto complainant has lodged the complaint before the respondent police under Sections 417, 376 and 506(i) IPC and further considering the fact that the petitioner is a former Member of Legislative Assembly and there was a difference of opinion with the ruling party and also considering the allegation levelled against the petitioner, this Court is inclined to grant anticipatory bail to the petitioner. 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 Judicial Magistrate, Theni, 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 learned Magistrate concerned and on further condition that:

(a)the petitioner and the sureties shall affix his photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity;

(b)the petitioner shall report before the respondent police as and when required for interrogation till 18.04.2019 and thereafter, he shall report before the respondent police daily at 10.30 a.m. until further orders;

(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]**; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

12/04/2019

/ TRUE COPY /

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

TO

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

+1. CC to Mr.A.MITHUN CHAKRAVARTHI Advocate SR.No.6700

ORDER

IN

CRL OP(MD) No.5494 of 2019

Date :12/04/2019

MS/MMS/SAR-4/15.04.2019/3P.6C