



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 05/07/2019

WEB COPY

PRESENT

**The Hon`ble Mr.Justice P.RAJAMANICKAM**

CRL OP(MD). No.9352 of 2019

B.Eswaran

... Petitioner/Accused No.6

Vs

State Rep.by

The Inspector of Police,,  
Bodinayakkanur (Rural) Police Station,  
Bodinayakkanur, Theni District.  
(Crime No.303 of 2019).

... Respondent/Complainant

For Petitioner : M/s.S.Palani Velayutham,  
Advocate.

For Respondent : Mr.V.Neelakandan,  
Additional Public Prosecutor

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

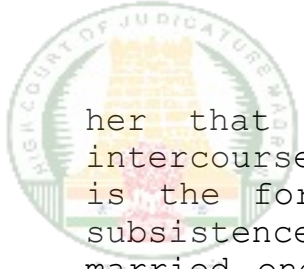
**PRAYER :-**

For Bail in Crime No.303 of 2019 on the file of the respondent Police.

ORDER : The Court Made the following order :-

1.This petition has been filed by the Accused-6, seeking bail for the alleged offences punishable under Sections 417, 420, 376, 448, 506(i) I.P.C and Section 67 of Information Technology Act, 2000, in Cr.No.303 of 2019 on the file of the respondent Police.

2.The learned counsel for the petitioner has submitted that as per the FIR, the accused No.1 had sexual intercourse with the defacto complainant forcibly on 22.08.2018 in a lodge and at that time, he took video and subsequently, by showing the said video, he blackmailed her and had sexual intercourse continuously and also compelled her to have sexual intercourse with his colleagues namely the accused Nos.2 to 5 and subsequently, she accidentally met with the petitioner herein, who is her relative and informed him about the aforesaid occurrence and at that time, the petitioner herein assured her that he will help her. But he also compelled her to have sexual intercourse with him and also took video and informed



her that he will send his two friends and she has to have intercourse with them also. He further submitted that the petitioner is the former husband of the defacto complainant and during the subsistence of the marriage with him, the defacto complainant got married one Vasanthakumar and hence, she executed a deed admitting the fact that she got married the said Vasanthakumar. In pursuance of the said deed, the petitioner herein had filed H.M.O.P.No.1 of 2012 on the file of the Sub-Judge, Theni and got divorce on 07.03.2012 itself and that being so, the allegation made in the F.I.R that the petitioner is a relative of the defacto complainant and she met the petitioner accidentally and she informed all the facts with him and he assured her that he will help her are totally false. He further submitted that the petitioner was arrested on 09.06.2019 and remanded to judicial custody. He further submitted that the Police has seized the cell phone, but sofar they have not sent the said cell phone to the Forensic Lab for getting any report and therefore, he prayed to grant bail to the petitioner.

3.The learned Additional Public Prosecutor has fairly conceded that the petitioner is the former husband of the defacto complainant and also conceded that she got divorce from the defacto complainant, but, subsequently, he had contact with the defacto complainant and took videos in the cell phone. He further submitted that the petitioner was arrested on 09.06.2019 and he is in judicial custody and cell phone was seized from him and it is found that he has already deleted all the videos in his cell phone. He further submitted that investigation is still pending and hence, he strongly opposed this petition.

4.Admittedly, the defacto complainant executed a deed on 15.11.2011 stating that she married the petitioner herein and during the subsistence of the said marriage, she had relationship with one Vasanthakumar and she became pregnant and based on the said consent deed, the petitioner has filed H.M.O.P.No.1/2012 on the file of the Sub-Judge, Theni and got divorce on 07.03.2012. While the fact remains so, the defacto complainant in her complaint has stated a new story that the petitioner is her relative and only accidentally, she met with him and narrated the entire facts and that the petitioner assured that he will help her. Further, already, cell phone was seized from the petitioner and it was not sent to the Forensic Lab for retrieving the messages. Further, the petitioner is in custody from 09.06.2019.

5.Taking into consideration of the aforesaid facts, this Court is inclined to grant bail to the petitioner, by imposing conditions:-.

[a] 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 Judicial Magistrate, Bodi, Theni District.



[b] the petitioner shall report before the respondent Police, daily at 10.00 am for a period of one month and thereafter, as and when required for the interrogation.

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

[d] the petitioner shall not tamper with evidence or witness 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-  
05/07/2019

/ TRUE COPY /

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

TO

1. THE JUDICIAL MAGISTRATE, BODI, THENI DISTRICT.

2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
THENI DISTRICT.

3. THE OFFICER INCHARGE, SUB JAIL, THENI.

4. THE INSPECTOR OF POLICE,,  
BODINAYAKKANUR (RURAL) POLICE STATION,  
BODINAYAKKANUR, THENI DISTRICT.

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

+1. CC to M/S.S.PALANI VELAYUTHAM Advocate SR.No.1173

ORDER  
IN  
CRL OP(MD) No.9352 of 2019  
Date :05/07/2019

**MS/PN/SAR-3/05.07.2019/3P.7C**