



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

Date : 16/03/2020

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD). No.644 of 2020

Merlin Shaly

... Petitioner/Intervening Petitioner/
Defacto Complainant

Vs

1.G.Raju @ Rajkumar

2.Gomathy @ Nancy

3.Amutha

4.Sreenivasa Moorthy @ Josuva David @ Kannan

...Respondents 1 to 4/Petitioners 1 to 4/
Accused No.A1 to A4

5.The Sub Inspector of Police,
All Woman Police Station,
Colachel,
Kanyakumari District.
Crime No.13/2019

... 5th Respondent/1stRespondent
Complainants

For Petitioner : M/s. K.P.Narayanakumar,
Advocate.

For Respondents

No.1 to 2 : No appearance

R5 : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

Petition for cancellation of bail Under Sec.439(2) of Cr.P.C

PRAYER :-

To cancel the Anticipatory bail granted by Principal Sessions Judge, Nagercoil in Crl.M.P.No.3030/2019 in Crime No.13/2019 in favour of the respondents 1 to 4.

ORDER : The Court made the following order :-

Heard the learned counsel for the petitioner.

2. Despite notice the respondents 1 to 4 who are accused in Crime No. 13 of 2019 on the file of the All Women Police Station, Colachel have not appeared.



3. This petition is to cancel the anticipatory bail granted to the respondents 1 to 4 by the learned Principal Sessions Judge, Nagercoil in Crl.M.P.No.3030 of 2019 for the alleged offence under Sections 498(A), 294(b), 506(i) of IPC and Sections 4 and 5 of D.P.Act. Now the present petition is filed by the defacto complainant stating that she was administered sedative while staying in the lodge along with the accused persons and the fourth accused namely Sreenivasa Moorthy @ Josuva David @ Kannan raped her. She got conceived and gave birth to twins and having come to know about this the same has been reported to the police. Based on the materials collected during investigation they have altered the charge by adding Section 376 of IPC.

4. The learned Government Advocate(Crl.Side) would submit that the investigation has brought out the materials to alter the charge against the accused persons by including Section 376, 120(b) and 190 of IPC and Sections 498(A), 294(b), 506(i) of IPC and Sections 4 and 5 of D.P.Act and alteration report forwarded to the Judicial Magistrate, Eraniel. Considering the gravity of the complaint investigation has been transferred to All Women Police Station, Nagercoil. He further submitted that the accused persons after getting anticipatory bail have not co-operated with the investigation and the fourth accused is not giving samples for conducting DNA test and he is evading and not co-operating with the investigation by not providing blood samples.

5. On cumulative assessment of the facts submitted before this Court since the graver offence under Sections 376 and 120(b) of IPC has been made out and charges have been altered, earlier anticipatory bail granted to the petitioners for offences under Sections 294(b), 498(A), 506(ii) of IPC r/w. Sections 4 and 5 of D.P.Act will not stand in the way of the respondent police to proceed against the petitioners and secure them. Since they have failed to co-operate with the investigation and in view of the materials available with the police regarding graver offence committed by these petitioners.

6. With these observations, the Criminal Original petition is disposed of.

sd/-
16/03/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1.THE PRINCIPAL SESSIONS JUDGE, NAGERCOIL.

2.THE SUB INSPECTOR OF POLICE,
ALL WOMAN POLICE STATION,
COLACHEL, KANYAKUMARI DISTRICT.

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

+1. CC to M/S.K.P.NARAYANAKUMAR Advocate SR.No.12228

ORDER

IN

CRL OP(MD) No.644 of 2020

Date :16/03/2020

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TK/PN/SAR.1/19.03.2020/3P/5C