



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/01/2020

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PRESENT

The Hon'ble Mr. Justice G.R. SWAMINATHAN

CRL OP(MD). No.1100 of 2020

Dhanasekaran

... Petitioner/Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Kamuthi,
Ramanathapuram District.
Crime No.6 of 2019.

... Respondent/Complainant

For Petitioner : M/s.A.Uthayakumar,
Advocate.

For Respondent : Mr.A.Robinson,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.6 of 2019 on the file of the Respondent Police.

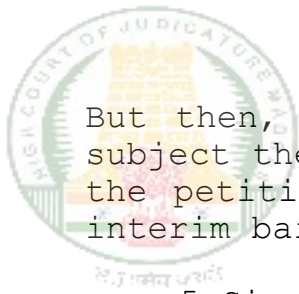
ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner is in custody since 21.12.2019 for the offences punishable under sections 417 and 376 of I.P.C., in Crime No.6 of 2019 on the file of the respondent police. He seeks bail.

3.The prosecution case is that the petitioner was in love with her and had sexual relationship with her by promising to marry her. The victim became pregnant and a child was also born on 12.01.2020.

4.The petitioner's counsel would allege that the victim was of loose morals and that, therefore, the petitioner cannot be fixed as the father of the child. Therefore, DNA test will have to be conducted and the paternity of the child has to be established.



But then, this will take quite some time. It is not possible to subject the child to DNA test during the next few months. Therefore, the petitioner's counsel states that the petitioner can be granted interim bail. He undertakes to deposit a sum of Rs.25,000/-.

5. Since from the materials on record, the relationship between the parties does not appear to be in doubt, I am inclined to put the petitioner on terms. It is true that the petitioner is 25 years old, while the victim is aged 29 years. But on this ground, the petitioner cannot escape from the consequences. The petitioner appears to have knowingly had sexual intimacy with the victim. Therefore, only DNA test will establish the paternity of the child. This will take time.

6. The petitioner shall arrange the furnishing of a demand draft for a sum of Rs.25,000/- favouring the victim. The said demand draft will be produced before the jurisdictional Magistrate at the time of execution of sureties. The Court below shall arrange to hand over the demand draft to the victim through the respondent police. This will be a non refundable payment.

7. The petitioner shall also remit a sum of Rs.2,500/- per month in the bank account of the defacto complainant. The liability of the petitioner will commence from the month of March 2020. The petitioner will continue to make the said remittance till the DNA Test result is made available. If the DNA report is in favour of the petitioner, the petitioner need not make any further deposit. The liability of the petitioner to make monthly deposit will cease. Of-course, the petitioner cannot claim recovery of the said amount from the victim, even if DNA report is in favour of the petitioner. If the DNA report is to the effect that the petitioner is the father of the child in question, the liability of the petitioner will become absolute. Of-course, the victim can claim a higher relief in an appropriate proceedings before the appropriate Court.

8. If the petitioner fails to adhere to the conditions set out above, it will be open to the victim to move this Court for cancellation.

9. Subject to the aforesaid condition, bail is granted. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

(i) 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 learned Judicial Magistrate, Kamuthi, Ramanthapuram District.

(ii) the petitioner is directed to appear before the respondent police as and when required for the interrogation.



(iii) 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].

sd/-
28/01/2020

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

TO

- 1.THE JUDICIAL MAGISTRATE,
KAMUTHI, RAMANATHAPURAM DISTRICT.
 - 2.THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
 - 3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KAMUTHI, RAMANATHAPURAM DISTRICT.
 - 4.THE OFFICER INCHARGE,
DISTRICT PRISON,
RAMANATHAPURAM DISTRICT.
 - 5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.A.UTHAYAKUMAR Advocate SR.No.1566

ORDER
IN
CRL OP(MD) No.1100 of 2020
Date :28/01/2020

RMI
TK/VR/SAR.1/28.01.2020/3P/7C