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

Date : 20/07/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.7475 of 2020

Mohammed Faruk, ... Petitioner/1st Accused

Vs

The State represented by
The Inspector of Police,
All Women Police Station,
Cantonment, Tiruchirappalli District.
Crime No.13/2020. ... Respondent/Complainant

For Petitioner : Mr.B.Jameel Arasu,
Advocate.

For Respondent : Mr.M.Chandra Sekaran,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.13 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner is A1 and he was arrested and remanded to judicial custody on 28.06.2020 for the alleged offence under Sections 376, 498(A) and 109 of IPC, in Crime No.13 of 2020, on the file of the respondent Police, seek bail.

2.The case of the prosecution is that the petitioner is a preacher. The defacto complainant is the wife of A2. A2 and his sister had converted to Muslim Religion and thereafter, A2 married to the defacto complainant on 10.12.2008. In the year 2011, the defacto complainant and other family members participated joint prayer meeting conducted by A1. Wherein, the petitioner said to have given some intoxicaty drinks to the defacto complainant and



committed rape and he repeated the same for several years. In the year 2020, the defacto complainant knew about that matter and thereafter the petitioner threatened the defacto complainant and a complaint has been given. Hence, the crime has been registered against the petitioner.

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3. The learned counsel for the petitioner submitted that as per the FIR, the occurrence is said to have been taken place in the year 2011 and the complaint has been given after nine years. He further submitted that the defacto complainant with mala fide intention to arrest the petitioner, he has been falsely implicated in this case. Hence, the petitioner arrested on 28.06.2020.

4. The learned Additional Public Prosecutor vehemently contended that the petitioner is the habitual offender and several complaints have been pending against him in similar nature. So far as this petitioner is concerned, he gave intoxicaty drinks to the defacto complainant and said to have committed rape. He further submitted that now the investigation is in progress and the petitioner has to taken for medical examination.

5. considering the facts and circumstances of the case and also considering the rival submission and on perusal of the FIR that the occurrence said to have taken place in the year 2011 and complaint has been given in the year 2020, after nine years later, in the above circumstances, this Court is inclined to grant bail to the petitioner on condition that the petitioner is directed to appear before the respondent police for enquiry and cooperate with them. If at all any other complaint is pending against the petitioner, it is always open to the respondent Police to register the same and investigate the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the Additional Mahila Court, Trichy District.

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

iii) the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v) On breach of any of the aforesaid conditions, the learned Magistrate Court is entitled to take appropriate action

<https://hmcourtsonline.org/ncrives/>



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].

vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
20/07/2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1. THE ADDITIONAL MAHILA JUDGE, TRICHY.
2. THE INPSECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CANTONMENT, TIRUCHIRAPPALLI DISTRICT.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.7475 of 2020
Date :20/07/2020

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AE/PN/SAR-II (20.07.2020) 3P 5C