



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

Date : 05/08/2020

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PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL.O.P.(MD) .No.7480 of 2020

M.Ramesh : Petitioner/sole Accused

Vs.

The State Represented by,
The Inspector of Police,
A.W.P.S., Thoothukudi,
Crime No.4 of 2020,
Thoothukudi District. : Respondent/Complainant

For Petitioner : Mr.K.Prabhu,
Advocate.

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

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

PRAYER :-

For Bail in Crime No.04 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is the first accused in Crime No.4 of 2020 for the offences punishable under Sections 417 r/w 376 and 506(ii) of the Indian Penal Code @ Sections 417, 376, 506(ii) of the Indian Penal Code and 3(1)(w)(i) of SC/ST Act POA Amendment, 2015, was arrested and remanded to judicial custody on 02.07.2020 and hence, he seeks bail.

2. The case of the prosecution is that the *defacto* complainant is the wife of the petitioner herein and it is an inter-caste marriage. Earlier, before the marriage, the petitioner and the *defacto* complainant were in love and also they had sexual intercourse and the *defacto* complainant got pregnant and thereafter, at the compulsion of the *defacto* complainant, the petitioner married



her. After the marriage, he refused to live with the *defacto* complainant and also compelled her to go for abortion. The other accused, namely brother and parents of the petitioner/Accused No.1 have also criminally intimidated her. Hence, the complaint has been given, based on which, the petitioner was arrested.

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3. The learned counsel for the petitioner would submit that the marriage between the petitioner and the *defacto* complainant is not in dispute. It is also not in dispute that a child was born to him. It is submitted that only due to some family dispute, a false complaint has been given by the *defacto* complainant and now the petitioner is ready and willing to live with the *defacto* complainant. The petitioner also filed an affidavit to that effect. A copy of the affidavit is also placed before this Court for perusal. Hence, the learned counsel prays for bail in favour of the petitioner.

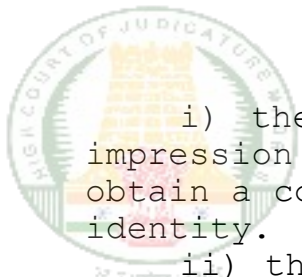
4. The learned Government Advocate (Criminal side) would submit that it is an inter-caste marriage. Even before the marriage, the *defacto* complainant got pregnant and now, she gave birth to a child. After marriage, the petitioner refused to live with the *defacto* complainant and all the accused criminally intimidated her and also sent her back to her parental home. Hence, the First Information Report has been altered including the offence under Section 3(1)(w) (i) of SC/ST Act POA Amendment, 2015.

5. I have considered the rival submissions and perused the materials available on record.

6. From the perusal of materials available on record including the First Information Report, it could be seen that the marriage between the petitioner and the *defacto* complainant is not disputed. Now, the petitioner also accepted that the child is born to him. Therefore, it seems that after marriage, there was some family dispute between the parties, because of that, the *defacto* complainant was said to have sent back to her parental home. Now, the petitioner filed an affidavit stating that he is ready and willing to live with the *defacto* complainant.

7. Considering the above facts and circumstances of the case and also taking note of the affidavit filed by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for SC/ST Act/Fourth Additional District Court, Tiruenlveli.



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 as and when required for interrogation.

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/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]**.

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

sd/-

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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 JUDGE,
SPECIAL COURT FOR SC/ST ACT/
FOURTH ADDITIONAL DISTRICT COURT, TIRUENLVELI.
- 2 THE INSPECTOR OF POLICE,
A.W.P.S., THOOTHUKUDI,
THOOTHUKUDI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.7480 of 2020

Date :05/08/2020

SML

<https://hcma.cts.rajahmundry.gov.in/Services/38.2020/3P/5C>