



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 12.08.2020

CORAM:

THE HONOURABLE MRS. JUSTICE R. THARANI

Crl.A.(MD)No.235 of 2020

WEB COPY

Vaitheeswaran ... Appellant / Sole Accused

Vs.

1.The Deputy Superintendent of Police,
Oomachikulam, Madurai.

2.State rep. by
The Inspector of Police,
Appanthirupathy Police Station,
Madurai District.
(Crime No.337/2020) ... Respondents 1 & 2/Complainant

3.Meena ... 3rd Respondent/Defacto Complainant

PRAYER: Criminal Appeal is filed under Section 14-A of the Scheduled Caste/Scheduled Tribes Act, 1989, against the order dated 29.06.2020 made in Cr.M.P.No.407 of 2020 on the file of the III Additional District Session Judge (PCR), Madurai, dismissed the bail application of the appellant and set aside the same.

For Appellant : Mr.AK.Azagarsami

For R- 1 and R-2 : Mr.K.Dinesh Babu
Additional Public Prosecutor

For R-3 : No appearance

JUDGMENT

Heard learned counsel appearing for the appellant and the learned Additional Public Prosecutor appearing for the respondents 1 and 2. Though notice was served, none appears for the defacto complainant / third respondent.

2. This appeal has been filed against the order, dated 29.06.2020, made in Cr.M.P.No.407 of 2020, on the file of the III Additional District Session Judge (PCR), Madurai, and enlarge the appellant on bail.



3. The allegations levelled against the appellant are that the appellant and the defacto complainant were having love affair and the appellant made a false promise to marry the defacto complainant and had sexual intercourse with her and later, he refused to marry her, since the defacto complainant belongs to a different community. Hence, a case was registered under Sections 376, 417 I.P.C. r/w Sections 3(1)(r), 3(1)(W) (1) of SC/ST (POA) Act, 2015, in Crime No.337 of 2020. The appellant filed a bail petition before the III Additional District Session Judge (PCR), Madurai, in Cr.M.P.No.407 of 2020 and the learned Judge dismissed that petition on 29.06.2020. Against the dismissal of that petition, the appellant has come forward with this Criminal Appeal.

4. On the side of the appellant, it is stated that the defacto complainant / victim is aged 19 years old and the allegation is love affair. The appellant is in custody for the past 71 days and medical examination was over and hence, prayed that the appellant to be released on bail.

5. On the side of the prosecution, it is stated that the investigation is still pending. Medical examination report is yet to be received. The learned III Additional District Session Judge (PCR), Madurai, has rightly dismissed the petition. If the appellant is released on bail, there is a chance for tampering the witnesses and objected to the release of the appellant on bail.

6. It is seen that the appellant is in custody for the past 71 days. Medical examination was already over. Major portion of the investigation might have been completed by this time. The appellant is in judicial custody from 30.05.2020. Considering the period of incarceration, this Court is inclined to set aside the order dated 29.06.2020 made in Cr.M.P.No.407 of 2020 on the file of the III Additional District Session Judge (PCR), Madurai,.

7. Accordingly, this Criminal Appeal is allowed and the order passed in Cr.M.P.No.407 of 2020, dated 29.06.2020, on the file of the III Additional District Session Judge (PCR), Madurai, is set aside and the appellant is ordered to be enlarged on bail on the following conditions:

(i)The appellant 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 III Additional District Session Judge (PCR), Madurai.



(ii)The appellant shall sign before the respondent Police daily twice at 10.00 a.m and 05.00 p.m until further orders and shall not leave the District of Madurai without prior permission of the Investigation Officer.

WEB COPY

(iii) the appellant shall not tamper with evidence or witness either during investigation or trial.

(iv) the appellant shall not abscond either during investigation or trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant 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/-

Assistant Registrar(CS-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Is

To

- 1.The III Additional District Session Judge (PCR),
Madurai.
- 2.The Deputy Superintendent of Police,
Oomachikulam, Madurai.
- 3.The Inspector of Police,
Appanthirupathy Police Station,
Madurai District.
4. The Superintendent, Central Prison, Madurai.



5.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

WEB COPY

Crl.A.(MD)No.235 of 2020
12.08.2020

KMK (CO)
TR(12.08.2020) 4P 6C