



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/08/2020

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PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD). No.8582 of 2020

Vivek

... Petitioner/Accused No.1

Vs

The State rep. by
The Inspector of Police,
Marthandam All Women Police Station,
Kanyakumari District.
(Crime No. 17 of 2020).

... Respondent/Complainant

For Petitioner : Mr.G.Aravinthan, Advocate.

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

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

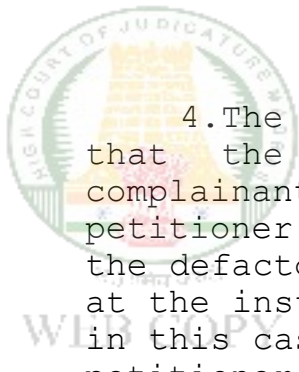
For Anticipatory Bail in Cr.No.17 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at the hands of the respondent police for the offences punishable under sections 4, 17, 11(4) and 12 of Protection of Child from Sexual Offences Act, 2012, in Crime No.17 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant is the wife of A1. The defacto complainant had love affair with one Sathish, who is arrayed as A2 in this case, and the parents of the defacto complainant refused to get married her with A2. Thereafter, they arranged marriage with the petitioner/A1 against the will of the defacto complainant, who is aged about 17 years. Now, at the instigation of A2, the defacto complainant said to have given a present complaint.

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



4.The learned counsel appearing for the petitioner submitted that the marriage between the petitioner and the defacto complainant, is an arranged one. He further submitted that the petitioner is not aware of the aforesaid facts and the parents of the defacto complainant arranged marriage. He further submitted that at the instigation of A2, the petitioner has been falsely implicated in this case. Hence, he prayed for grant of anticipatory bail to the petitioner.

5.The learned Government Advocate (Criminal Side) appearing for the respondent police submitted that the defacto complainant is aged about 17 years at the time of marriage. Admittedly, it is arranged marriage between the petitioner and the defacto complainant. Since the defacto complainant is minor at the time of marriage, the present complaint has been given by the defacto complainant.

6.Considering the facts and circumstances of the case and also considering the rival submissions on either side and on perusal of the materials available on records, it is seen that the marriage said to have taken place between the petitioner and the defacto complainant, is arranged one. After the marriage the petitioner came to know that earlier the defacto complainant had love affair with A2 and only at the instigation of A2, the present complaint has been given. According to the petitioner, he did not aware of the fact that the defacto complainant is the minor, at the time of marriage. Considering these circumstances, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of four weeks from the date of receipt of a copy of this order, before the learned Special Court for POCSO Act cases, Nagercoil, Kanyakumari District, on condition that the petitioner shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further condition that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the respondent police as and when required for interrogation.

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;



(d)the petitioner shall not abscond either during investigation or trial;

(e)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]; and;

(f)if the accused/petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
26/08/2020

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/ /2020
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 POCSO ACT CASES,
NAGERCOIL, KANYAKUMARI DISTRICT.
2. THE INSPECTOR OF POLICE,
MARTHANDAM ALL WOMEN POLICE STATION,
KANYAKUMARI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.8582 of 2020
Date :26/08/2020

VSG

<https://hseervices.ecourts.gov.in/hseervices/> SPS/ AKM/ SAP-II/ 01.09.2020/ 3P/4C