



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/10/2020

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PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.10987 of 2020

1. Marichamy
2. Valli

... Petitioners/Accused No.1 & 2

Vs

State Rep. by
The Inspector of Police,
Eppodumvendran Police Station,
Thoothukudi District.
Crime No.20 of 2020.

... Respondent/Complainant

For Petitioners : Mr.V.Kathirvelu, Senior Counsel
for M/s.K.Prabhu, Advocate.

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

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

PRAYER :- For Anticipatory Bail in Crime No.20 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners who are arrayed as A-1 & A-2 apprehending arrest at the hands of the respondent police for the offences punishable under sections 147, 417, 420 and 313 of IPC, in Crime No.20 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution is that the victim girl aged about 28 years who is being widow had affair with the first petitioner/A-1. Due to which on the pretext of marriage they had physical relationship and the victim also got pregnancy. At the time of her six month pregnancy, on the instigations of the petitioners and other accused persons and also on pretext of marriage they made to abort her pregnancy. Subsequently, all the accused persons refused to marry the victim with the first accused for the reason that her character is not good. Hence, the complaint.



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

4. The learned senior counsel appearing for the petitioners has submitted that, totally there are five accused persons in which the petitioners are arrayed as A-1 & A-2, while being so, the first petitioner went for marriage function he had intimacy with the victim and due to which she also got pregnant. Subsequently, he came to understand that the first petitioner has also one among the persons who had intimacy with the victim. Therefore, all the family members refused to get marry with the victim girl and insofar as the second petitioner is concerned he has nothing to do with the offence as alleged by the prosecution.

5. The learned Government Advocate (crl. Side) appearing for the respondent police submitted that, only on the instigation of all the accused persons the victim was taken into hospital and abort her pregnancy on the pretext of marriage, subsequently, they refused to marry the victim girl.

6. It is seen from the records that the victim is widow and utilised the said position, A-1 had sexual relationship with the victim on the pretext of marriage, due to which, she also got pregnancy and subsequently, the first accused along with other accused persons taken her to hospital and made to abort her pregnancy on the pretext of marriage. After aborting her pregnancy, the accused persons refused to get marry the victim girl with A-1. Therefore, A-1 has committed very serious and heinous offence as against women. Hence, this Court is not inclined to grant anticipatory bail to the first petitioner.

7. The second petitioner/A-2 is concerned, she is mother of the first accused and she is aged about 50 years and she helped the first accused to abort pregnancy of the victim girl, this Court is inclined to grant bail to the second petitioner herein with certain conditions.

8. Accordingly, the Criminal Original Petition is partly allowed and the petition is dismissed as against the first petitioner and the second petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Vilathikulam, Thoothukudi District, on condition that the second petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties (One should be a blood relative of the second petitioner) 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 second 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 second petitioner shall report before the respondent police daily at 10.30 a.m., without fail, for a period of two weeks and thereafter as and when required for interrogation;

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

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

sd/-
12/10/2020

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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 JUDICIAL MAGISTRATE,
VILATHIKULAM, THOOTHUKUDI DISTRICT.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI.

3 THE INSPECTOR OF POLICE,
EPPODUMVENDRAN POLICE STATION,
THOOTHUKUDI DISTRICT.

<https://hcservice.hcma.org.in/>



4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

WEB COPY

ORDER
IN
CRL OP(MD) No.10987 of 2020
Date :12/10/2020

ksa
JM/PN/SAR III/21.10.2020/4P/5C