



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/10/2020

WEB COPY

PRESENT

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

CRL OP(MD). No.11191 of 2020

G.Thangapandi

... Petitioner/Sole Accused

Vs

State Rep. by
The Inspector of Police,
All Women Police Station,
Srirangam Police Station,
Trichy District.

... Respondent/Complainant

Thamizha

... Petitioner/Intervener/
De Facto Complainant

For Petitioner : M/s.C.M.Arumugam,
Advocate.

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

For Intervenor : Mr.Niranjana S.Kumar,
Advocate

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

PRAYER :-

For Bail in Cr.No.22 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 11.09.2020 for the offences punishable under Sections 417, 420, 506(ii) and 376 IPC in crime No.22 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant fell in love with the petitioner while she was working as Nurse in the private hospital. Thereafter, the defacto complainant got married with one Tamilarasan in the year 2019. In fact, on the promise of marriage, the accused had sexual relationship with the complainant. Due to which, she got pregnant. On



01.07.2020, she delivered female child. Thereafter, the accused did not take care of the defacto complainant and also refused to marry the defacto complainant. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner and the defacto complainant were working in same hospital and fell in love. Thereafter, the defacto complainant married one Tamilarasan on 12.09.2019. Thereafter, on her own willing, eloped with the petitioner and gave birth to female child. Now, the petitioner is ready and willing to marry the defacto complainant and maintain the new born child. The parents of the petitioner also filed an affidavit before this Court and undertake to arrange marriage of the petitioner and the defacto complainant and also undertake to take care of the future life of the new born child.

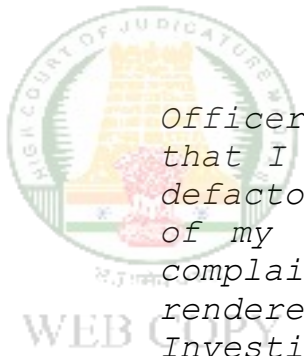
4.The learned counsel for the defacto complainant/intervenor would submit that the petitioner fell in love with the defacto complainant and thereafter, she got married with one Tamilarasan. Only on assurance given by the petitioner, the defacto complainant eloped with the petitioner and gave birth to the female child. Thereafter, the petitioner did not take care the defacto complainant as well as their child. Now the defacto complainant and her child are at lurch.

5.The learned Government Advocate(Crl.Side) would submit that the defacto complainant fell in love with the petitioner while she was working as Nurse in the private hospital. Thereafter, the defacto complainant got married with one Tamilarasan in the year 2019. In fact, on the promise of marriage, the accused had sexual relationship with the defacto complainant. Due to which, she got pregnant. On 01.07.2020, she delivered female child. Thereafter, the accused did not take care of the defacto complainant and also refused to marry the defacto complainant. He would further submit that investigation is still pending.

6.This Court directed the defacto complainant to appear before this Court through video conference. She also present and submitted that she is very afraid of the petitioner since the petitioner will abandon her again. Therefore, she submitted that the petitioner is required to maintain the new born child. Though the defacto complainant married one Tamilarasan, immediately she eloped with the petitioner herein.

7.The parents of the petitioner herein also filed affidavit. The relevant portions are extracted hereunder:-

"2.I submit that I have gone through the First Information Report in Crime No.22 of 2020 on the file of the All Women Police Station, Srirangam, Trichy. Though I don't have any knowledge about the allegations levelled in the First Information Report, but requested the Investigation



Officer at the police station on the date of remand of my son that I was ready to arrange marriage between my son with the defacto complainant. In this regard I also got the consent of my son and he also was ready to live with the defacto complainant as a husband and wife. All my efforts were rendered in vain because of the non co-operation of the Investigation Officer and some extent the Defacto complainant also.

3.I submit that without go into the allegation of the complaint, I undertake to arrange the marriage of my son with the defacto complainant consider the future life of the new born baby. So, the Defacto complainant may also have the same responsibility to look after the future life of the new born baby. Keeping my son inside the prison would not serve any purpose. In this regard I have got the consent my son to arrange his marriage with the defacto complainant."

8.Accordingly, the petitioner is ready and willing to marry the defacto complainant and also ready to maintain the child.

9.Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the conditions that the petitioner after comeout from the prison, shall register the marriage with the defacto complainant, within a period of two weeks. The defacto complainant is also directed to co-operate with the petitioner for registration of the marriage. The petitioner shall produce the marriage certificate to the respondent police, within a priod of two weeks, failing which the bail granted to the petitioner stands automaticaaly cancelled the respondent police is at liberty to secure the petitioner.

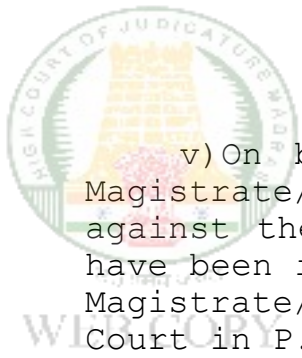
10.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Srirangam, Trichy District.

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., for a period of four weeks and thereafter, as and when required.

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

sd/-
28/10/2020

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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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
SRIRANGAM, TRICHY DISTRICT.
- 2 DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHY.
- 3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SRIRANGAM POLICE STATION,
TRICHY DISTRICT.
- 4 THE OFFICER INCHARGE,
THURAIYUR SUB JAIL, TRICHY.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.11191 of 2020
Date :28/10/2020

gns
JM/PN/SAR III/28.10.2020/4P/6C