



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

Date : 30/11/2020

PRESENT

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

CRL OP(MD). No.12166 of 2020

1. Rajasekarapandian
2. Vadivel
3. Pandidurai
4. Anbarasai

... Petitioners/Accused No.1 to 4

Vs

The State rep. by
The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District
Crime No.260 of 2020.

... Respondent/Complainant

D.Vijila

... Intervening Petitioner/
Defacto Complainant/Complainant
(in CRL MP(MD) No.5790/2020
in CRL OP(MD) No.12166/2020)

For Petitioners : M/s.Niranjana S.Kumar, Advocate.
For Intervenor : Mr.P.M.Vishnuvarthanan, Advocate
(appeared through video conference)
For Respondent : Mr.KR.Bharathikannan,
Government Advocate (Criminal Side)

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

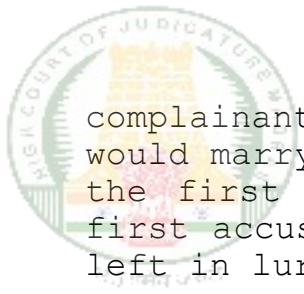
PRAYER :-

For Anticipatory Bail in Crime No.260 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A1 to A4, who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 294(b), 417, 506(i) and 376 of IPC seek anticipatory bail.

2. The case of the prosecution is that the defacto complainant was appointed in M/s. Rapidlink a company established for general maintenance work in Abudhabi, United States of Emirates. The first accused is the owner of the company and on the pretext of marriage he has physical relationship, due to which the defacto complainant become pregnant and the same was informed to the first accused immediately. All the accused persons have threatened the defacto



complainant and also told her that if she aborts her pregnancy he would marry her and the defacto complainant believing the words of the first petitioner herein aborted her pregnancy. Thereafter the first accused refused to marry her and the defacto complainant was left in lurch. Hence the complaint.

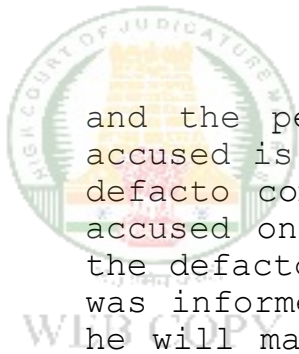
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3. The learned counsel for the petitioners would submit that the defacto complainant is the employee of the first petitioner and he is the managing Director of Company at Dubai. A2 is the own brother of the first accused and A3 is the father of A1 and A2 and the fourth accused is the sister of the first and second accused. He further submitted that the defacto complainant suppressed the fact that she already got married with one Sivaprakash and had physical relationship with the first petitioner, hence it would not amount to rape, since she consented for physical relationship. He further submitted that the defacto complainant waited for more than three months till the arrival of the first petitioner to India and thereafter lodged a complaint. In so far as the second petitioner is concerned he happens to be the brother of the first petitioner and he has nothing to do with the alleged crime as alleged by the prosecution.

4. The defacto complainant appeared through video conference and stated that she got her work under the first accused who runs overseas man power consultancy in the name of Rapid link General Maintenance with a branch operating in Ramnad District run by the second respondent who is the brother of the first accused. She was offered a job as Admin Supervisor in the month of April 2019 at Abu Dhabi branch. In fact she has also paid a sum of Rs.1,00,000/- to the first accused and the second accused to avail the job. While being so, the first accused promised to marry the defacto complainant and has physical relationship, due to which she became pregnant and when the same was informed to the first accused the first accused also told that he will marry her if she aborts her pregnancy. Believing the words she also aborted her pregnancy and thereafter the first accused refused to marry the defacto complainant. It was immediately informed to the second accused since he only employed her at Abu Dhabi and he also threatened her with dire consequences and to that extent he also sent message to her and the other members of the first accused also threatened her with dire consequences and also refused to marry her with the first accused and she also stated that later she came to understand that first accused is also having illegal relationship with other two ladies and he has also cheated them. Hence she opposed to grant anticipatory bail to the petitioners.

5. The learned Government Advocate (Criminal Side) would submit that first accused on the pretext of marrying the first accused had physical relationship, and thereafter left her in lurch.

<https://hcservices.courts.gov.in/hcservices> seen that there are totally four accused in this case



and the petitioners herein are arrayed as A1 and A4. The second accused is the brother of the first accused and he only employed the defacto complainant in the office of A1 at Abu Dhabi. The first accused on the pretext of marriage had physical relationship with the defacto complainant and she also got pregnancy and when the same was informed to the first accused the first accused also told that he will marry her if she aborts her pregnancy. Believing the words she also aborted her pregnancy and thereafter the first accused refused to marry the defacto complainant. Now the first accused denied the entire relationship between the first accused and the defacto complainant, when there is no question of consensual sex by the defacto complainant. According to the defacto complainant she got pregnant and it was aborted on the instructions given by the first accused and therefore the first accused have committed very serious and heinous offence, hence this Court is not inclined to grant anticipatory bail to the first petitioner. In so far as the petitioners 2 to 4 are concerned they said to have only threatened the defacto complainant, hence this Court is inclined to grant anticipatory bail to the petitioners 2 to 4.

7.Taking into consideration the facts and circumstances of the case and also taking note of the fact that the petitioners 2 to 4 only said to have threatened the defacto complainant, this Court is inclined to grant anticipatory bail to the petitioners 2 to 4 with certain conditions.

8.Accordingly, the petitioners 2 to 4 are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Kadaladi, Ramanathapuram District on condition that the petitioners 2 to 4 shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each 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:

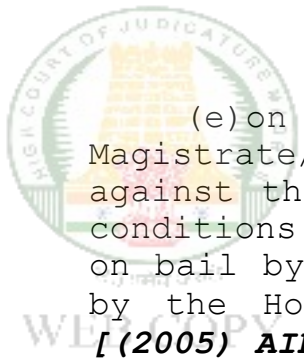
(a)the petitioners 2 to 4 and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the second petitioner shall report before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter as and when required for interrogation.

(c)the petitioners 2 to 4 shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners 2 to 4 shall not abscond either during trial;

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(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners 2 to 4 in accordance with law as if the conditions have been imposed and the petitioners 2 to 4 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 thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

9. In so far as the first petitioner is concerned, this petition stands dismissed.

sd/-
30/11/2020

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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 JUDICIAL MAGISTRATE,
KADALADI, RAMANATHAPURAM DISTRICT.
2. -DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
KADALADI POLICE STATION,
RAMANATHAPURAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1.CC to M/S.NIRANJAN S KUMAR, Advocate, SR.No.7794 dated 01/12/2020

ORDER IN
CRL OP(MD) No.12166 of 2020
Date :30/11/2020

AAV

SRS/JC/SAR-III/04.12.2020/4P/6C

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