



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/11/2020

PRESENT

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

CRL OP(MD) . No.13265 of 2020

Esakkiraja

... Petitioner/Sole Accused

Vs

The State by

The Inspector of Police,

All Women Police Station, Tenkasi,

Crime No. 23/2020.

... Respondent/Complainant

For Petitioner : M/s.D.Venkatesh,
Advocate.

For Respondent : Mr.R. Erottuchamy,
Government Advocate (Crl.Side)

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

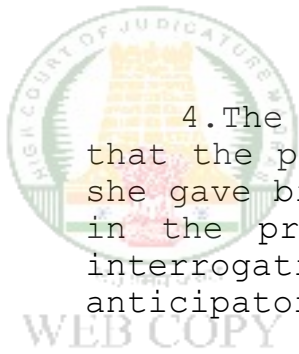
PRAYER :-For Anticipatory bail in Crime No. 23 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner is a sole accused apprehending arrest at the hands of the respondent police for the offences punishable under sections 376 of I.P.C. and Section 5(i), 5(i)(ii) & 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.23 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner eloped with the minor victim girl who is aged about 17 years and got married and they had physical relationship and victim girl also got pregnant. Thereafter, the victim girl was admitted in the hospital and gave birth to a male child. Since the victim girl is a minor the present complaint has been filed.

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 petitioner is happily living with the victim girl and also she gave birth to male child. Infact, their marriage was solemnized in the presence of both the parents and as such the custodial interrogation of the petitioner does not require. Hence, he seeks anticipatory bail.

5.The learned Government Advocate (criminal side), on instructions, submitted that the minor victim girl is aged about 17 years was rapped by the petitioner due to which she has also got pregnant now she delivered a male child. He further submitted that though the petitioner is living with the victim girl, the victim girl is aged about only 17 years.

6. It is seen from the records that the petitioner is a sole accused. Admittedly, he fall in love with the minor victim girl who is aged about 17 years. Thereafter, they got married and gave birth to a male child. Infact, their marriage was solemnized in the presence of both the parents. However, the victim girl is only aged about 17 years they also living together happily.

7. Considering the fact and circumstances of the case this Court is inclined to grant anticipatory bail to the petitioner on condition that the petitioner shall register their marriage immediately after the victim girl attaining majority and produce their marriage certificate before the first respondent police. If, the petitioner fails to produce their marriage certificate with the victim, the anticipatory bail granted to this petitioner shall automatically stands cancelled and the respondent police is directed to secure the petitioner and proceed in accordance with law.

8. 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 Judicial Magistrate, Tenkasi, and on his executing 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 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



(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/-
23/11/2020

/ TRUE COPY /

/ /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, TENKASI.
2. DO THRO' THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, TENKASI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.13265 of 2020
Date : 23/11/2020

KSA
AE/AKM/SAR-II (01.12.2020) 3P / 5C