



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/11/2020

WEB COPY

PRESENT

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

CRL OP(MD). No.13256 of 2020

M.Peruamal

... Petitioner/Accused No.1

Vs

1. The State rep. by
The Deputy Superintendent of Police,
Samayanallur Sub Division,
Madurai District.
(Crime No. 1422 of 2020 of
Palamedu Police Station)

...1st Respondent/Complainant

2. P.Muthupandi @ Sudha

...2nd Respondent/
Defacto Complainant/Victim

For Petitioner : M/s.T.K.Gopalan,
Advocate.

For Respondent 1: Mr.R.Erottuchamy,
Government Advocate (Criminal Side)

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

PRAYER :-

For Bail in Crime No.1422 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 08.10.2020 for the offences punishable under Sections 417, 294(b), 323, 376, 313, 506(1) of IPC 4 TN Prohibition of Harassment of Women Act, 2002, 3(1)(r), 3(1)(s), 3(2)(va) and 3(1)(w)(i) of SC/ST Act, 2015, in Crime No.1422 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that based on the false promise given by the petitioner that he would marry her, he had sexual intercourse with the victim girl. Thereafter, he was arranged marriage with other girl. When it was questioned by the defacto



complainant, she had driven out of the house of the accused. Hence, the complaint.

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

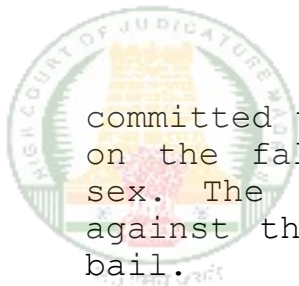
4. The learned counsel appearing for the petitioner submitted that the petitioner as well as the defacto complainant are educated persons and they had love affair for the past six years. Only with the consent of the victim girl, the accused had physical relationship with her and as such, there is absolutely, no question of rap to attract under Section 376 of IPC. He further submitted that since the defacto complainant belongs to SC/ST community, the offence also including under Section SC/ST Act. The petitioner never promised to marry the victim girl and he never intended to marry her. The victim girl is being the graduate, she very well knows the consequences of physical relationship with the male person. Further, admittedly, the victim girl had love with the petitioner/accused and was roaming along with him to several places and indulged in romantic activities for the past six years. He further submitted that the petitioner was arrested and remanded to judicial custody on 08.10.2020. Hence, he prayed for grant of bail to the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the respondent Police submitted that on the false promise given by the petitioner that he would marry her, he had sexual intercourse with the victim girl. Due to which, she also got pregnant on two occasions and the pregnancy was also aborted by the victim girl on the instruction of the petitioner. But the petitioner without marrying the victim girl, arranged his marriage with other girl. When it was questioned by the victim girl and her parents, she was driven out of his house and lodged the complaint against the accused. Hence, he opposed to grant of bail to the petitioner.

6. He also produced statement recorded under Section 164 Cr.P.C. It is seen that the petitioner is the sole accused. The petitioner as well as the victim girl are major and also graduates. They fell in love and on his false promise that he would marry her, he had sexual intercourse with the victim girl. Due to which, she got pregnant on two occasions. Only on the instruction given by the petitioner, the pregnancy was aborted by her by consuming tablets. Thereafter, he refused to marry her and also arranged marriage with the other woman.

7. The Statement recorded under Section 164 of Cr.P.C reveals that she was driven out of the house of the petitioner since she belongs to SC/ST community. They also offered compensation to the victim girl.

8. Considering the facts and circumstance, the petitioner has



committed very heinous offence by committing to rap the victim girl on the false promise. Therefore, it would not attract consensual sex. The offence under Section 376 IPC is clearly attracted as against the petitioner. Hence, the petitioner is not entitled for bail.

9. Accordingly, this Criminal Original Petition stands dismissed.

sd/-
23/11/2020

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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 SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
2. THE DEPUTY SUPERINTENDENT OF POLICE,
SAMAYANALLUR SUB DIVISION,
MADURAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.T.K.GOPALAN, Advocate (SR-7606[I] dated 23/11/2020)

ORDER
IN
CRL OP(MD) No.13256 of 2020
Date :23/11/2020

DSS
SRS/AKM/SAR-IV/26.11.2020/3P/5C