



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 24/11/2020

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PRESENT

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

CRL OP(MD).No.13297 of 2020

Mahesh

... Petitioner/Accused No.1

Vs

The State rep. by
The Inspector of Police,
All Women Police Station,
Colachel,
Kanyakumari District.
Crime No.21 of 2020.

... Respondent/Complainant

For Petitioner : Mr.A.S.Vaigunth,
Advocate.

For Respondent : Mr.KR.Bharathi Kannan,
Government Advocate (Criminal Side)

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

PRAYER :-

For an Anticipatory Bail in Crime No.21 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as Accused No.1, apprehending arrest at the hands of the respondent police for the offence punishable under sections 366 IPC altered into 366(A)IPC., r/w 5(1), 6 & 17 of POCSO Act, in Crime No.21 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner fell in love with the victim girl aged about 17 years and thereafter they eloped and got married and had physical relationship. After knowing the same, the father of the victim girl arranged marriage for his daughter against her will. Therefore, she left her parents's house. Based on the complaint given by the father of the victim girl, the case was registered and the victim girl was rescued from the



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

4. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are close relatives and they fell in love and got married. Since the victim girl is aged about 17 years at the time of their elopement, both the parents fixed the marriage for them to be held on 27.12.2020. The victim girl was born on 24.12.2002. She will attain majority on 24.12.2020. Now both the parents agreed to accept their love and arranged marriage between them. The father of the victim girl has also filed an affidavit to that effect.

5. The learned Government Advocate (Criminal side) appearing for the respondent police submitted that the petitioner and the victim girl fell in love and they have eloped and also had physical relationship. Now both the family agreed for marriage and their marriage is also fixed on 27.12.2020.

6. It is seen that the petitioner is the sole accused. The petitioner and the victim girl are close relatives. They fell in love and eloped and also had physical relationship.

7. On perusal of the affidavit filed by the father of the victim girl revealed that both the family joined together and arranged their marriage to be held on 27.12.2020. Since the victim girl was born on 24.12.2002 and she attains her 18 years on 24.12.2020. The relevant portion of the said affidavit is as follows:

"The alleged defacto complainant is my close blood relative and we are having cordial relationship with one among others family. The alleged accused has already attained the age of 30 years. We both family members had already negotiated arranged to get marriage of my daughter named Thinisha with the above said Mahesh on coming 27.12.2020 i.e. after the completion of 18 years. My self and my family members are not intending to proceed the case further and intend to finish the further proceedings of the case."

8. Considering the facts and circumstances of the case and also an affidavit filed by the father of the victim girl, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions:

9. Accordingly, the 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, Eraniel, on condition that the



petitioner shall execute 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 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:

WEB COPY (a)the petitioner shall register his marriage with the victim girl namely, Tinisha, D/o.Y.Chellappan and produce their marriage registration certificate on or before 05.01.2021 before the respondent police, failing which, the anticipatory bail granted to the petitioner shall stand automatically cancelled;

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

(c)the petitioner shall report before the respondent police daily at 10.00 a.m., without fail, for a period of four weeks and thereafter as and when required for interrogation;

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

(e)the petitioner shall not abscond either during investigation or trial;

(f)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;

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

sd/-

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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



TO

1. THE JUDICIAL MAGISTRATE,
ERANIEL.
2. ~~-DO-~~ THOROUGH: THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT AT NAGERCOIL.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, COLACHEL,
KANYAKUMARI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.13297 of 2020
Date :24/11/2020

VSD
SRS/JC/SAR-III/01.12.2020/4P/5C