



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/12/2020

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PRESENT

The Hon`ble Mr.Justice S.M.SUBRAMANIAM

CRL OP(MD) . No.14976 of 2020

Mathankumar

... Petitioner/Sole Accused

Vs

The Inspector of Police,
All Women Police Station,
Alangulam, Tenkasi District.
(Crime No.10/2020).

... Respondent/Complainant

For Petitioner : M/s. M.Sankar,
Advocate.

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

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

PRAYER :-

For Anticipatory Bail in Crime No.10 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who apprehend arrest at the hands of the respondent police for the offences punishable under Section 376 of IPC and Section 9 of Child Marriage Act 2006 r/w 5(1)(n) 6 of POCSO Act 2012, seeks anticipatory bail.

2.Heard both sides.

3.The case of the prosecution is that the petitioner got married the de-facto complainant, who is aged about 16 years and out of marriage, the de-facto complainant gave a birth to a child, namely, Sivaruthish.

4.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case.



5.The learned Government Advocate (Crl.side) appearing for the respondent strongly opposed to grant anticipatory bail to the petitioner.

6.The 164 statement reveals that the minor girl, aged about 16 years, joined with the petitioner on her own volition and not by force. A minute difference is to be drawn in respect of taking away a person and allowing a minor girl to accompany with the person. Taking away a person is undoubtedly an offence under IPC. However, allowing a minor to accompany with the person on some occasion may not be an offence. Therefore, this Court is of the considered opinion that a girl aged about 16 years cannot be said to be ignorant of the societal implications. The girl was residing in a town. Therefore, one can understand that she is capable of knowing what is good and what is bad to her life. Then, a girl is able to decide her life in her own way, which is not offending anybody's interest. Then, refusing bail will amount to interfere with the personal liberty.

7.Taking note of the above facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.6, Madurai, 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:

(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 or trial;

(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



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.

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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 JUDICIAL MAGISTRATE No.6, MADURAI.

2.-DO-THROUGH :THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ALANGULAM, TENKASI DISTRICT.

4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.SANKAR, Advocate (SR-8306[I] dated 17/12/2020)

ORDER
IN
CRL OP(MD) No.14976 of 2020
Date :17/12/2020

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AE/SMA/SAR-III (21.12.2020) 3P / 6C