



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

Date : 23/12/2020

PRESENT

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

CRL OP(MD) .No.15681 of 2020

Sankar

... Petitioner/Accused No.1

Vs.

The Inspector of Police,
All Women Police Station,
Thirunelveli Town.
Cr.No.11 of 2019.

... Respondent/Complainant

For Petitioner : Mr.Karunanithi,M.A.,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.11 of 2019 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A1, apprehending arrest at the hands of the respondent police for the offences punishable under Sections 341, 506(i) IPC., r/w Section 7, 8, 11 (iii) r/w 12 of POCSO Act, in Crime No.11 of 2019, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that on 10.10.2019 at 8.45 a.m., when the victim aged about 15 years studying 10th standard was going to school, she was wrongly restrained and an abusive video was shown to her and the petitioner touched her breasts. Hence, she returned to home and informed her mother Lakshmi. On the information given by the mother of the victim, the respondent police has registered the case against the petitioner.

3.The learned counsel for the petitioner would submit that the petitioner has already lodged a complaint as against the uncle of the victim and the same was registered in Cr.No.6 of 2019 under Section 12 of POCSO Act. Hence, for taking vengeance, this complaint has been given against the petitioner. He further submitted that



now the investigation has been completed and final report has been filed and custodial interrogation of the petitioner is not required, hence he seek anticipatory bail.

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

5.A perusal of the statement recorded under Section 164 Cr.P.C reveals that when the victim girl, who is aged about 15 years was coming in cycle, the petitioner pushed her from the cycle and compelled to marry him. It is also seen that the father of the petitioner has already lodged a complaint as against the uncle of the victim for the very same set of allegation and the same was registered in Cr.No.6 of 2019 under Section 12 of POCSO Act, which is pending on the file of the respondent police. Now the investigation is completed and also final report in Cr.No.11 of 2019 has also been filed.

6.Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.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, Mahila Court, Tirunelveli, 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 daily at 10.00 a.m. for a period of four weeks and thereafter 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 were breached 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.

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sd/-
23/12/2020

/ TRUE COPY /

/ /2021
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, MAHILA COURT,
TIRUNELVELI
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT
- 3.THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THIRUNELVELI TOWN.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.15681 of 2020
Date :23/12/2020

VSD
PK/SMA/SAR-III/07.01.2021 : 3P/5C