



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.91 of 2021

1. Sundari
2. Retheesh

... Petitioners/Accused No.2 & 3

Vs

State through
The Inspector of Police,
All Women Police Station, Colachel,
Kanyakumari District.
Cr.No. 36 of 2020.

... Respondent/Complainant

For Petitioners : Mr.Maheswaran.R,
Advocate.

For Respondent : Mr.M.V.Chandrasekaran,
Government Advocate (Crl.Side)

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

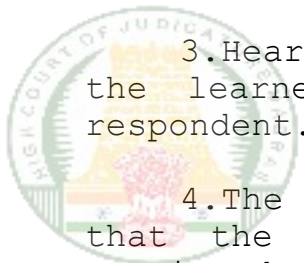
PRAYER :-

For Anticipatory Bail in Crime No.36 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners, who are arrayed as A2 and A3, apprehending arrest at the hands of the respondent police for the offences punishable under sections 417, 376, 294(b) and 506(ii) of IPC, in Crime No.36 of 2020 on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the petitioner was in love with the defacto complainant and on a false promise of getting her married, he had sexual intercourse with the victim girl in several times. Thereafter, the defacto complainant along with her family members went to the petitioners' house with the a marriage proposal, the same was refused by the first accused and the first accused said to have threatened the defacto complainant with dire consequences. Based on the complaint given by the defacto complainant, the crime has been registered against the petitioner.



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

4. The learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He further submitted that the main allegation is only against the first accused, the petitioners are mother and brother of the first accused and there is no other serious allegation against the petitioners. Hence, he prayed for grant of anticipatory bail to the petitioners.

5. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that the first accused had sexual intercourse with the defacto complainant with a false promise to marry her. Thereafter, the first accused refused to marry her, due to which, the occurrence said to have taken place. Hence, the crime has been registered.

6. Considering the above facts and circumstances of the case and also considering the fact that the main allegation is only against the first accused, the petitioners are mother and brother of the first accused and there is no other serious allegation against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

7. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of two weeks from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Kuzhithurai, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each 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 petitioners 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 petitioners shall report before the respondent police as and when required for interrogation.

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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



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

sd/-

16.02.2021

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/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

vsg

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.II, Kuzhithurai.
2. -Do- Thro The Chief Judicial Magistrate,
Kanyakumari District
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.91 of 2021

Date : 16/02/2021

VB JC SAR 1(19.02.2021) 3P 5C