



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/01/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.520 of 2021

M.Bagavathi

... Petitioner/Accused No.2

Vs

State through,
The Inspector of Police,
Silaiman Police Station,
Madurai District.
(In Crime No. 1376 of 2020).

... Respondent/Complainant

For Petitioner : Mr.R.Alagumani,
Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory bail in Crime No.1376 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as A2, apprehending arrest at the hands of the respondent police for the offences punishable under sections 366, 342, 323 of IPC r/w under Sections 3 & 4 of the Protection of Children from Sexual Offences Act, 2012, in Crime No.1376 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the 1st accused kidnapped the minor victim girl, who was aged about 14 years at the instigation of A1 and compelled her to marry him. Since she refused to marry him, he tied Thali forcibly and had committed the sexual assault against her in the presence of the petitioner. Hence, the complaint.

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



4.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and she has been falsely implicated in this case. The 1st accused fell in love with the victim girl. The petitioner never encouraged the love affair between the 1st accused and the victim girl. In fact, she directed the victim girl to go to her house. Hence, he prayed for anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl. Side), on instructions, submitted that there are totally 2 accused persons. The petitioner herein and the 1st accused are the mother and son. The victim girl was also produced before the concerned Magistrate Court and her statement was recorded under Section 161 Cr.P.C. It is revealed therefrom that the 1st accused kidnapped the minor victim girl, who was aged about 14 years at the instigation of A2 and compelled her to marry him. Since she refused to marry him, the petitioner assaulted her and confined her in the room along with her son. Thereafter, the 1st accused tied thali forcibly and had committed sexual assault against her in the presence of the petitioner. The petitioner and the 1st accused confined the victim girl in their house for a period of two days and thereafter the 1st accused dropped the victim girl in her house. The petitioner and the victim hail from place residing nearby.

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

7.Accordingly, petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of two weeks from the date of receipt of a copy of this order before the learned Sessions Court, Special Court for Trial of Cases under POSCO Act, Madurai, and on his executing 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 10.30 a.m for a period of two 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 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;

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

sd/-
27/01/2021

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/ /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 SESSIONS JUDGE,
SPECIAL COURT FOR TRIAL OF CASES UNDER POCSO ACT,
MADURAI.
2. THE INSPECTOR OF POLICE,
SILAIMAN POLICE STATION, MADURAI DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.520 of 2021
Date : 27/01/2021

IAS
PK/KV/SAR-II/02.02.2021 : 3P/4C