



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

Date : 02/08/2021

PRESENT

WEB COPY

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.501 of 2021

Rajasekarapandian

...Petitioners/Accused No.1

Vs

The State rep.by
The Inspector of Police,
Kadaladi Police Station,
Ramanathapuram District
(In Crime.No.260 of 2020)

... Respondent/Complainant

For Petitioner : Mr.M.AJMALKHAN
Senior Counsel for
Mr.K.SUDALAIYANDI,
Advocate.

For Respondent : Mr.T.SENTHIL KUMAR,
Government Advocate (Crl.Side)

For Intervener : Mr.C.S.S.PILLAI

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

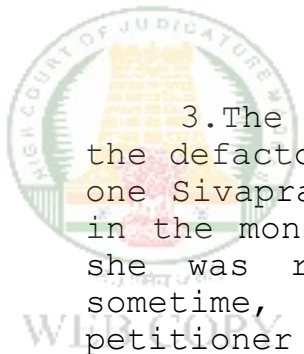
PRAYER :-

For Anticipatory Bail in Crime No.260 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A1 apprehending arrest at the hands of the respondent police for the offences punishable under sections 294(b), 417, 506(i) and 376 I.P.C, in Crime No. 260 of 2020 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant was appointed in M/s.Rapidlink a company established for general maintenance work in Abudhabi, the United States of Emirates. The petitioner herein is the owner of the company and on the pretext of marriage he had physical relationship and impregnated the defacto complainant, the same was informed to the petitioner immediately. All the accused persons in this case have threatened the defacto complainant and the petitioner also told her that if she aborts her pregnancy, he would marry her. On believing the words of the petitioner, the defacto complainant aborted her pregnancy. Thereafter, the petitioner refused to marry her. Hence the complaint.



3.The learned Senior counsel for the petitioner submits that the defacto complainant is an M.B.A graduate and she already married one Sivaprakash and joined the office of the petitioner at Abudhabi in the month of January 2020. Since her performance was very poor, she was removed from service in the year 2020 itself. After sometime, the defacto complainant lodged the complaint as if the petitioner had physical relationship with her on false promise that he would marry her. He further submitted that the defacto complainant has filed a petition in HMOP.No.92 of 2016 before the Sub Court, Valliyoor as against her husband namely Sivaprakash and obtained a consent divorce on 11.11.2016. Thereafter, she joined the office of the petitioner and in order to harass the petitioner, the defacto complainant has foisted a false complaint. He further submitted that the other accused in this case were enlarged on anticipatory bail by this Court in Crl.O.P(MD).No.12166 of 2020 on 30.11.2020. Hence, he seeks anticipatory bail to the petitioner.

4.Mr.C.S.S.Pillai, learned counsel appearing for the Intervener/Defacto complainant sought permission of this Court to file an Intervener Application and on permission of this Court, he has made his submission that this petitioner is the owner of the company by name M/s. RAPIDLINK having office at Abudhabi, United States of Emirates and engaged in providing man power to the required company. He further submitted that under the guise of providing employment to the defacto complainant, the petitioner had misused the defacto complainant and had physical intercourse with her, due to which, she got pregnant and when the same was informed to the petitioner, he told that he would marry her if she aborts her pregnancy and on believing the words of the petitioner, the defacto complainant aborted her pregnancy and thereafter, he refused to marry her. Hence, he strongly opposed to grant anticipatory bail to the petitioner.

5.The learned Government Advocate (Crl.Side) appearing for the respondent police submits that the entire occurrence is said to have taken place in abroad at Abudhabi. As per Section 188 Cr.P.C , they have to obtain necessary permission for sanction from the Central Government and only thereafter, the prosecution can be initiated. However, the allegation in the FIR is that the petitioner had physical relationship with the defacto complainant after giving false promise that he would marry her.

6.This Court considered the rival submissions.

7.Mr.C.S.S.Pillai,learned counsel for the defacto complainant has pointed out Section 3 of I.P.C which reads as follows:

"3. Punishment of offences committed beyond but which by law may be tried within India -

Any person liable, by any Indian law to be tried for an offence committed beyond India shall be dealt with



according to the provisions of this Code for any act committed beyond India in the same manner as if such act had been committed within India".

However, Section 188 Cr.P.C indicates that:

WEB COPY

"188. Offence committed outside India- when an offence is committed outside India-

(a) by a citizen of India, whether on the high seas or elsewhere; or

(b) by a person, not being such citizen, on any ship or aircraft registered in India,

he may be dealt with in respect of such offence as if it had been committed at any place within India at which he may be found:

Provided that, notwithstanding anything in any of the preceding sections of this Chapter, no such offence shall be inquired into or tried in India except with the previous sanction of the Central Government".

8. Admittedly, the defacto complainant, who is aged about 26 years, got employment in the office of the petitioner in the United States of Emirates in the year 2020 and thereafter, she returned India. The petitioner claims that on her poor performance, she was terminated from service. However, it has been disputed by the defacto complainant. The learned counsel for the petitioner has also pointed out that the defacto complainant already married to one Sivaprakash and she has also filed an application for divorce in H.M.O.P.No.92 of 2016 before the Sub Court, Valliyoor and the same was allowed on 11.11.2016 as consent divorce. As rightly pointed out by the learned Government Advocate (Crl.Side) that according to the averment made in the F.I.R, the alleged occurrence is said to have taken place at the United States of Emirates and therefore, the very initiation of complaint is in dispute.

9. Considering the nature of offence and the place of occurrence, this Court is inclined to grant Anticipatory Bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Kadaladi, Ramanathapuram District, within a period of fifteen days from the date of receipt of a copy of this order, 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 said Magistrate and on further conditions 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 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]**.

[f] If the accused/petitioners thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

02/08/2021

/ 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,
KADALADI, RAMANATHAPURAM DISTRICT.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
RAMANATHAPURAM DISTRICT.
3. THE INSPECTOR OF POLICE,
KADALADI POLICE STATION,
RAMANATHAPURAM DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI DISTRICT .

+1. CC to Mr.K.SUDALAIYANDI Advocate SR.No.5000

ORDER IN

CRL OP(MD) No.501 of 2021

Date :02/08/2021

SA/PN/SAR.2/09.08.2021/4P/6C