



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 16/02/2021

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PRESENT

**The Hon`ble Mr.Justice M.NIRMAL KUMAR**

**CRL OP(MD) . No.2317 of 2021**

1. Yogesh @ Maria Chandra Yogesh
2. Pitchai @ Antony Pitchai ... Petitioners/Accused Nos.2 & 4

Vs

State rep.by  
The Inspector of Police,  
All Women Police Station,  
In Crime No.512/2020,  
Tuticorin District. ... Respondent/Complainant

For Petitioners : Mr.C.Susi Kumar,  
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

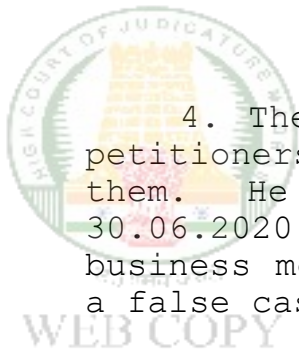
PRAYER :-For Anticipatory Bail in Crime No.512/2020 on the file of the respondent Police.

ORDER : The Court made the following order :-

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

2. The petitioners apprehending arrest at the hands of the respondent police for the offences punishable under Sections 147, 294(b), 341, 323 and 506(ii) of IPC., and Sections 7 & 8 of POCSO Act, in Crime No.512 of 2020, on the file of the respondent police, seek anticipatory bail.

3. The case of the prosecution is that when the victim girl and the defacto complainant's aunty were going in their bike, the accused person sexually assaulted the victim girl and abused her in filthy language. When it was questioned by the defacto complainant's aunty, the petitioner and other accused attacked her. Hence,the complaint.



4. The learned counsel for the petitioners submitted that the petitioners are innocent and a false case has been foisted against them. He would further submit that the occurrence took place on 30.06.2020 and the complaint lodged only on 03.07.2020. Due to business motive between the petitioner and the defacto complainant, a false case has been registered.

5. The learned Government Advocate (crl.side) appearing for the State produced 164 Cr.P.C., statement of the victim girl and would submit that the accused persons abused the victim girl and sexually harassed her and when the same was questioned by the defacto complainant's aunty, the petitioners attacked her. He would further submit that initially FIR was registered for the offence under Sections 147, 294(b), 341, 323 and 506(ii) of IPC., and Section 4 of the Tamil Nadu Prohibition of Harassment of Woman Act and subsequently, after recording the statement of the victim girl, the Sections were altered and hence, there is no question of after thought. He would further submit that the earlier anticipatory bail petitions filed by the petitioners were dismissed.

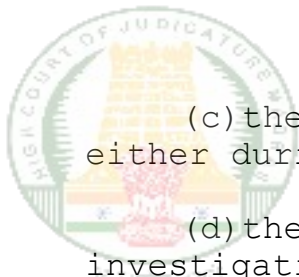
6. It is seen that there are totally five accused and the petitioners are arrayed as A2 and A4. On perusal of the statement recorded under Section 164 Cr.P.C., it is revealed that except the petitioner, the other accused persons sexually harassed the victim girl and attacked the defacto complainant's aunt, due to previous business motive. The occurrence took place on 30.06.2020. After recording the statement of the victim girl, the sections were altered.

7. Considering the above facts and circumstances of the case and also considering the fact that there is no specific over act attributed as against the petitioners, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail in the event of arrest or their appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Special Court for POCSO Cases, Tuticorin, on condition that the petitioners 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 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 daily at 10.30 a.m for a period of two weeks and thereafter, as and



(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;

WEB COPY (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 5560]; and;

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

sd/-

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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 JUDGE,  
SPECIAL COURT FOR POCSO CASES, TUTICORIN.
- 2.THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION, TUTICORIN DISTRICT.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.C.SUSIKUMAR, Advocate ( SR-1201[I] dated 18/02/2021 )

ORDER

IN

CRL OP(MD) No.2317 of 2021

Date :16/02/2021

MPK

AE/JC/SAR-III (22/02/2021) 3P / 5C

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