



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05.08.2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD)No.5789 of 2021 &
CRL MP(MD)Nos.4562 & 4581 of 2021

Felix Raj ... Petitioner/Accused No. 1

Vs

State Rep by
The Inspector of Police,
All Women Police Station,
Tallakulam, Madurai City.
(Crime No.29 of 2021)

... Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu,Senior Counsel
for Mr.M.Solaisamy, Advocate

For Respondent : Mr.P.Kottai Chamy
Government Advocate(Crl. Side)

For Intervenor : Mr.S.Kameshwaran,Advocate
for Mr.R.Rajesh,Advocate

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

PRAYER :-

For Anticipatory Bail in Crime no.29 of 2021 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 417 and 376 of IPC in Crime No.29 of 2021, seeks anticipatory bail.

2. This is the second anticipatory bail application and the earlier anticipatory bail application filed before this Court by the petitioner in Crl.OP(MD)No.10070 of 2020 was dismissed by this Court on 12.10.2020 on the ground that this petitioner had physical relationship with the defacto complainant, refused to marry her and attempted for marriage with some other girl.



3. Mr.V.Kathirvelu, learned Senior Counsel appearing for the petitioner submits that the relevant materials were not placed before this Court in the earlier application in Crl.OP(MD)No.10070 of 2020 and placed reliance on the typed set of papers filed by him, First Information Report and the legal notices exchanged between the petitioner and the defacto complainant on 03.08.2020 and 10.08.2020. He also drew the attention of this Court to the earlier complaint of this petitioner to the Commissioner of Police, Madurai City dated 13.07.2020 and the statement given by the defacto complainant under Section 161(3) of Cr.P.C before the respondent police on 16.09.2020 and pointed out the variations in her statement.

4. The learned Government Advocate (Criminal Side), opposed this petition on the ground that investigation is pending.

5. As pointed out by the learned Senior Counsel, the defacto complainant is aged about 24 years and has also studied upto B.E. On 13.07.2020, this petitioner has made a complaint to the Commissioner of Police, Madurai City stating that while he was studying B.E. in NPR college, the defacto complainant moved him as a friend and from the year 2019 she is insisting him to marry her. Since he has refused, she started intimidating him. After the complaint dated 13.07.2020, the defacto complainant preferred this complaint on 16.09.2020 alleging that this petitioner and the defacto complainant moved closely and now the petitioner is neglecting to marry her.

6. Both the petitioner and the defacto complainant are well educated. The petitioner is a B.E. and M.B.A. graduate. The defacto complainant is B.E. graduate. Knowing the consequences, they have moved closely. There is no specific averment in the complaint that they had physical relationship. Whereas, in a legal notice issued on behalf of the defacto complainant, she claims that they got married on 23.10.2015, there was co-habitation and afterwards both of them shared the bed frequently. But, in the First Information Report, there was no mention about the above facts and the complaint was also lodged after the petitioner lodged a complaint before the Commissioner of Police. Neither any religion, law, custom encourages pre marital relationship. The defacto complainant being a B.E. graduate, said to have had physical relationship with the petitioner on the pretext that this petitioner has agreed to marry her cannot be considered as a ground for rejecting the anticipatory bail application. Moreover, investigation is completed and final report is also filed. In view of the above facts, this Court is inclined to grant anticipatory bail to the petitioner and hence, this petition is allowed.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, to the Additional Mahila Court (JM Level), Madurai on condition



that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties for a like sum to the satisfaction of the Magistrate concerned 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 respondent police as and when required, until further orders.

[c]the petitioner shall not tamper with the 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 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

Consequently, the connected Miscellaneous Petitions are closed.

sd/-
05/08/2021

/ TRUE COPY /

/ /2021
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

mbi

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 ADDITIONAL MAHILA COURT
(JM LEVEL), MADURAI

2 DO THROUGH
THE CHIEF JUDICIAL MAGISTRATE
MADURAI

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, TALLAKULAM,
MADURAI CITY.

4 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M/S.M.SOLAISAMY, Advocate (SR-5174[I] dated 06/08/2021)

ORDER

IN

CRL OP(MD) No.5789 of 2021

Date :05/08/2021

PKP/VR/SAR-2/18/08/2021/4P/6C