



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

Date : 13/07/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.5765 of 2021

Mathan

... Petitioner/Sole Accused

Vs

The State rep.by
The Sub Inspector of Police,
All Women Police Station,
Colachel, Kanyakumari District.
Crime No.15/2021

... Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu, Senior Counsel for
Mr.K.Prabhu, Advocate.

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

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

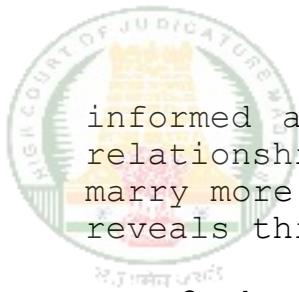
PRAYER :-

For Anticipatory Bail in Crime No. 15 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
451, 506(ii) IPC and Section 5(1) and 6 of Protection of Children
from Sexual Offence Act, 2012 in Crime No.15 of 2021, seeks
anticipatory bail.

2.The case of the prosecution is that the defacto complainant
is studying third year B.Com and she is 21 years old now. When she
was studying 10th standard in the year 2015, the accused made friends
with her. On the promise of marrying her, he had physical
relationship with her on 03.04.2015, 11.08.2015 and 04.07.2018. He
made her to believe that he would marry her, after she become major.
Therefore, she did not inform her relationship with the accused to
her parents. He used to have physical relationship with her.
thereafter, her parents started to arrange marriage for her and she



informed about the same to the accused. He told her that he had relationship with several women and if he is to marry, he has to marry more than 100 women. So saying, he threatened her that if she reveals this incident, he would kill him. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and this case has been given by exaggerating the events. He further submitted that now parties have settled the issue and step is to be taken for quashing the proceedings.

4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is pending. However, he produced copy of the affidavit given by the defacto complainant.

5.As narrated above, the accused had penetrative sexual assault against the defacto complainant from the year 2015. However, this case was registered only on 07.04.2021. There is a huge delay and there is no proper explanation in FIR with regard to this huge delay. That apart, it is now informed that the defacto complainant wants to withdraw the criminal case given against the petitioner.

6.Taking into consideration all these factors, this Court is of the considered view that instead of keeping this case at FIR stage, the petitioner may be granted anticipatory bail with a direction to co-operate with the respondent police for investigation including medical examination, if any and that will help for the completion of investigation and filing of final report and commencement of trial. In this view of matter, this Court is inclined to grant anticipatory bail to the petitioner.

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, before the learned Special Court for POCSO Act Cases, Nagercoil, Kanyakumari District, on condition that the petitioner 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 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 respondent police daily at 10.30 am., until further orders.



[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.

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[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.

sd/-
13/07/2021

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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 SPECIAL COURT FOR POCSO ACT CASES,
NAGERCOIL, KANYAKUMARI DISTRICT.
- 2.THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
COLACHEL, KANYAKUMARI DISTRICT.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.PRABHU, Advocate (SR-4553[I] dated 14/07/2021)

ORDER
IN
CRL OP(MD) No.5765 of 2021
Date :13/07/2021

GNS
TK/JC/SAR.2/15.07.2021/3P/5C