



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

Date : 10/06/2021

PRESENT

The Hon'ble Mr.Justice G.CHANDRASEKHARAN

CRL OP (MD) . No.7347 of 2021

Marichamy

... Petitioner/Accused No.1

Vs

The State Rep. by
The Inspector of Police,
Eppodumvendran Police Station,
Thoothukudi District.
Crime No.20/2020.

... Respondent/Complainant

For Petitioner : Mr.Prabhu.K., Advocate.

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

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

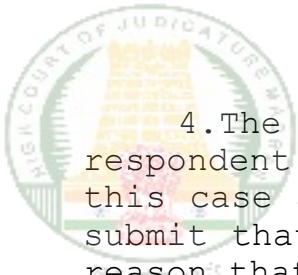
PRAYER :- For Anticipatory Bail in Crime No. 20 of 2020 on the file of the respondent Police.

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 sections 147, 406, 417, 420 and 313 I.P.C., in Crime No.20 of 2020, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant and the petitioner/first accused are relatives. The defacto complainant lost her husband in an accident and she is living separate with her daughter. The petitioner and the defacto complainant developed friendship and he promised to marry her. On such promise, the petitioner had sexual relationship with the defacto complainant and she got conceived. At the instance of the defacto complainant and his family members, fetus was aborted. Hence, the case has been registered.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he did not commit any offence as alleged by the prosecution and the petitioner is falsely implicated in this case and the other accused had been granted anticipatory bail and the investigation in this case is almost completed.



4. The learned Government Advocate (Crl. Side) appearing for the respondent police submitted that there are totally six accused in this case and the petitioner herein arrayed as A1. He would further submit that the investigation in this case is not completed for the reason that the petitioner is absconding.

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5. Heard the learned counsel for the petitioner and the learned Government Advocate (criminal side) for the respondent.

6. It is seen from the submissions made that the defacto complainant and the petitioner/first accused are relatives. The defacto complainant lost her husband in an accident and she is living with her daughter. The petitioner and the defacto complainant developed friendship and on the promise to marry her, the petitioner had sexual relationship. As a result, she got conceived and at the instance of the defacto complainant and his family members, the fetus was aborted.

7. It is a case where two major persons viz., the petitioner and the defacto complainant, had voluntarily sexual intercourse. Of course, it is alleged by the defacto complainant that she was convinced to have her sexual intercourse with the petitioner on the promise to marry her. The fact remains that she is a matured woman and she has consensual sexual intercourse with the petitioner. This Court is not inclined to go deep into merits of the case now. It appears that the respondent police has not taken any effective steps to arrest the petitioner. The co-accused in this case were already granted anticipatory bail. The case cannot be kept in the stage of investigation for long. Therefore, this Court is of the considered view that to bring this case to logical conclusion, the petitioner may be granted anticipatory bail with the direction to co-operate with the respondent police for completing the investigation including undergoing necessary medical tests, so that the respondent police would be in a position to complete the investigation and file the final report making it possible to proceed with the trial.

8. In this view of the matter, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Vilathikulam, within a period of fifteen days from the date of resumption of regular work in subordinate Courts, 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 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., 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;

[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/petitioner thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

10/06/2021

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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 JUDICIAL MAGISTRATE, VILATHIKULAM.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THOOTHUKUDI DISTRICT.
3. THE INSPECTOR OF POLICE,
EPPODUMVENDRAN POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER IN

CRL OP(MD) No.7347 of 2021

Date :10/06/2021