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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/05/2021

PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL OP(MD). No.6869 of 2021

Rajkumar ... Petitioner/Accused No.1

Vs.

State rep by
The Inspector of Police,
Appanthirupathi Police Station,
Madurai District.
(In Crime No.59/2021).

... Respondent/Complainant

For Petitioner : M/s.Subash Babu.M,
Advocate.

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.59/2021 on the file of the respondent police.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2. The petitioner is arrayed as accused no.1. He was arrested and remanded to Judicial Custody on 16.03.2021 for the offences punishable under sections 294(b), 417, 376 and 506(i) of I.P.C., in Crime No.59 of 2021 on the file of the respondent police. He seeks bail.

3. The case of the prosecution is that the petitioner gave a false promise that he would marry her. On believing the words of the petitioner, the victim had a physical relationship with him.



Subsequently, the victim became pregnant. Therefore, the defacto complainant's parents approached the petitioner and requested him to marry their daughter. Since there is no response from the side of the petitioner, the defacto complainant preferred this complaint.

4. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case.

5. Heard the learned Additional Public Prosecutor appearing for the respondent.

6. According to the petitioner's counsel, it is a case of consensual physical relationship between the victim girl and the petitioner. Even from the facts narrated in the FIR, it is seen that both the victim as well as the petitioner had a physical relationship. It is alleged that the parents of the petitioner requested the petitioner to marry the victim girl. Whether it was a consensual relationship or not cannot be a matter for consideration at this stage.

7. Even though serious allegation has been levelled against the petitioner, considering the fact that he is in custody for the past 70 days and the major portion of the investigation might have been over by this time and the medical examination of the victim girl as well as the petitioner is also over, the I am inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

i) 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 Judicial Magistrate No.V, Madurai.

ii) 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.

iii) The petitioner shall appear before the respondent police once in a week i.e on every Monday at 10.30 a.m until further orders.

[iv] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[v] the petitioner shall not abscond either during investigation or trial.

[vi] 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].



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

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Sd/-
20/05/2021

/ TRUE COPY /

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

Rmi/PKN

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 NO.V, MADURAI.
2. DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
APPANTHIRUPATHI POLICE STATION,
MADURAI DISTRICT.
4. THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.6869 of 2021
Date : 20/05/2021

VB MNR SAR IV(21/05/2021) 3P / 6c