



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 16/07/2021

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PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD)No.9446 of 2021

M.Thamilselvi

... Petitioner/Accused

Vs

The State Represented by
The Inspector of Police,
All Women Police Station - Lalgudi,
Trichy District.
(Cr.No.31/2020).

... Respondent

For Petitioner : Mr.Saleem Abdul,
Advocate for M/S.AAV Partners.

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

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

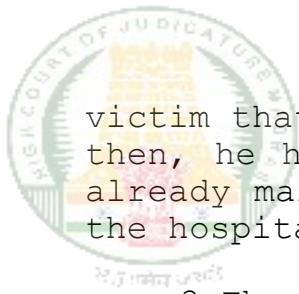
PRAYER :-

For Anticipatory bail in Crime No. 31 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 Section 312 IPC and Section 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(i), 5(j)(ii) and 6 POCSO Act, 2012 in Crime No.31 of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the victim is the daughter of the defacto complainant. She was studying BBA second year. On 12.02.2019, she was looking very sad. The defacto complainant asked her what had happened. She told that she had stomach pain. Therefore, the defacto complainant took her to Arul Hospital. After examination, Doctor informed that her daughter was six months pregnant. On enquiry, her daughter told that one Martin was responsible for her pregnancy. Martin said to have told the



victim that he was in love with her and on 16.07.2021 he tied thali, then, he had sexual relationship with her under threat. Martin was already married. Therefore, abortion was done to the victim girl in the hospital. Hence, the complaint.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and she is a Doctor in Arul Hospital. He further submitted that no abortion was done to the victim. The victim was brought to the hospital with stomach pain. In the course of treatment, there was a spontaneous expulsion of dead female baby. It was a normal delivery and there was no abortion in the hospital. It is also submitted that the investigation officer questioned her about the abortion. Reply was given stating that no abortion was done and only treatment was given to the victim girl, who came hospital in pain. The petitioner's counsel also produced medical records in support of his submission.

4.The learned Government Advocate(Crl.side) appearing for the respondent police opposed this petition on the ground that investigation is pending. It is his submission that it was not normal delivery and abortion was performed.

5.It is seen that there are two claims with regard to the manner in which a dead female child of the victim girl was expelled. Case of the prosecution is that it is a case of abortion. The case of the petitioner is that it is spontaneous expulsion and only treatment was given. These aspects have to be tried during trial by producing medical records, oral and documentary evidence. The petitioner herein is a Doctor. Therefore, this Court is of the view that custodial interrogation of the petitioner is not necessary in this case. Hence, this Court is inclined to grant anticipatory bail to the petitioner.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Lalgudi, Tiruchirapalli 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 as and when required.



[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 thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

sd/-

16/07/2021

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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,
LALGUDI, TIRUCHIRAPALLI DISTRICT.

2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
TRICHIRAPALLI DISTRICT.

3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION - LALGUDI,
TRICHY DISTRICT.

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

+1. CC to M/S.AAV PARTNERS Advocate SR.No. 4653

ORDER

IN

CRL OP(MD) No.9446 of 2021

Date :16/07/2021

GNS

SS/JC/SAR-II/22.07.2021 : 3P/6C