



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 30/07/2021

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PRESENT

**The Hon`ble Mr.Justice G.CHANDRASEKHARAN**

**CRL OP(MD) . No.10214 of 2021**

Balasubramaniyan ... Petitioner/Sole Accused

Vs

The State Represented by  
The Inspector of Police,  
Puzhuthipatti Police Station,  
Sivagangai District.  
(Crime No. 53 of 2021).

... Respondent/Complainant

For Petitioner : Mr.B.Jameel Arasu,  
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,  
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No. 53 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 25.06.2021 for the offences punishable under Sections 417,376 and 506(i) of IPC in Crime No.53 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant was working in a thottam. The accused was already married to one Malarmathi and had three female children through her, he has no male child. The accused proposed her that if they had sexual relationship she will deliver a male child and that male child will become the heir for all his properties. Initially the defacto complainant refused his proposal. Then eight months before the date of complaint she visited his house and there was no one in the house. The accused had sexual relationship with her against her wish. He promised to marry her and settle the properties to her



male child to be born. He continued the relationship with her several times, thereafter he refused to marry her and now she is eight month pregnant, therefore this case came to be registered.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that from the First Information Report allegations it is seen that the defacto complainant demanded the petitioner to settle the property in her favour and this case is given with exaggerated and embellished facts. He would further submit that the petitioner is in judicial custody from 25.06.2021, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed the bail petition on the ground that the accused promised to marry the defacto complainant and had sexual relationship with her. Now he had refused to marry her and the defacto complainant is eight month pregnant.

5. As narrated above the allegations in the First Information Report shows that the petitioner had loured the defacto complainant and had sexual relationship with her on the promise of marrying her and on the promise of settling the property to her male child to be born. Even if the allegations are true and the proposal made by the petitioner is true the defacto complainant knows very well that the petitioner was a married with one Malarmathi and had three female children through her. She also knows that when the earlier marriage was in subsistence having sexual relationship is an offence. Not only that when the marriage is in subsistence it is not legally possible to marry another woman during the life time of the wife. Knowing all these factors the defacto complainant willingly or unwillingly consented for having sexual relationship with her.

6. Taking these facts and the totality of all the facts and circumstances of the case and the fact that the substantial portion of the investigation might have been completed by this time and the fact that the petitioner is in judicial custody from 25.06.2021, this Court is inclined to grant bail to the petitioner

7. Accordingly, the petitioner is ordered to be released on bail 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 learned Judicial Magistrate, Singampunari, Sivagangai District and on further condition that:

[a] 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 station, until further orders.



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

[d] the petitioner shall not tamper with evidence or witness 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

30/07/2021

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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 JUDICIAL MAGISTRATE,  
SINGAMPUNARI, SIVAGANGAI DISTRICT.
- 2.DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,  
SIVAGANGAI DISTRICT.
- 3.THE OFFICER INCHARGE,  
DISTRICT JAIL, RAMANATHAPURAM.
- 4.THE INSPECTOR OF POLICE  
PUZHUTHIPATTI POLICE STATION,  
SIVAGANGAI DISTRICT.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

ORDER

IN

CRL OP(MD) No.10214 of 2021

Date :30/07/2021

SS/JC/SAR-I/30.07.2021 : 3P/6C