



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Reserved on : 19/11/2021
Delivered on : 23.11.2021
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.10702 of 2021

Ajith Kumar ... Petitioner/Accused (Rank Not Known)

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station, Thiruchendur,
Thoothukudi District
Crime No.Not known of 2021. ... Respondent/Complainant

Ramadurga ... Petitioner / Intervener

For Petitioner : Mr.K.Veilmuthu,
Advocate.

For Respondent : Mr.Rms.Sethuraman,
Additional Public Prosecutor.

For Intervener : Mr.C.Mayilvahana Rajendran,
for Mr.M.Vijayan.

For Mediator : Mr.P.Mahendran.

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

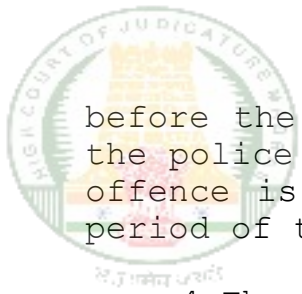
PRAYER :-For Anticipatory Bail in Crime No.Not known /2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 417 and 420 IPC, in Crime No.Not known of 2021, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant and the petitioner were in love, that the petitioner on promise to marry her, had physical relationship, which resulted in her pregnancy and that the petitioner on the intervention of his family members has been evading marriage and that thereby had cheated the defacto complainant.

3.When the matter was taken up for hearing on 25.08.2021, considering the representation of the learned Government Advocate (Criminal Side), this Court has passed an order granting interim bail to the petitioner and directing him to appear



before the respondent police on 02.09.2021 for enquiry and directed the police to conduct enquiry and register a case, if any cognizable offence is made out, otherwise close the petition enquiry within a period of two weeks.

4. Thereafter, when the matter was taken up for hearing on 09.09.2021, considering the representation made by the learned counsel for the petitioner as well as the learned counsel for the defacto complainant that the entire issue could be solved amicably and suggested that the matter be referred to Mediation, this Court has passed an order appointing an Advocate Mr.P.Mahendhiren, as Mediator and directed the Registry to place the matter before the Mediation Centre and directed the Mediator to file report before this Court, on 23.09.2021.

5. In pursuance of the order of this Court, the matter was placed before the Mediation and after conducting mediation, the learned Mediator has filed a report on 30.09.2021, stating that Mediation has failed. When the matter was taken up for hearing on 19.11.2021, the learned Mediator would submit that he had held discussion with both the parties along with their parents and Advocates and he has narrated the versions of both the petitioner and the defacto complainant in his report and despite his efforts, the petitioner and his parents had stated that there was no possibility of any marriage between the petitioner and the defacto complainant and that they would settle the issue through the Court only.

6. The report of the Mediator has been taken note of only for the limited purpose that the Mediation ended in failure and this Court cannot look into the version of the petitioner and the defacto complainant narrated before the Mediator and the submissions of the parties before the Mediator.

7. It is pertinent to mention that in pursuance of the order of this Court, the respondent police after enquiry, has registered a case in Crime No.15 of 2021 under Sections 5(1) and (6) of POCSO Act and 376 IPC. Admittedly, the petitioner and the defacto complainant were on love for some years.

8. According to the prosecution, the petitioner on 17.01.2017 by giving a promise to marry the defacto complainant had physical relationship with the defacto complainant. It is the specific case of the prosecution that the defacto complainant was aged 17 years in the year 2017 and that since she was a minor and was not capable of giving valid consent, the provisions of POCSO Act came to be invoked.

9. It is further case of the prosecution that the defacto complainant after coming to know that the petitioner's parents have been trying to conduct marriage of the petitioner with some other



police, that since the petitioner was not forthcoming to marry her, she had even attempted to commit suicide by drinking hair oil on 11.09.2019 and was admitted in Sankar Hospital, Aathur and that even thereafter, the defacto complainant expressed her willingness to marry the petitioner.

10.The learned Additional Public Prosecutor would submit that though the parents of the petitioner had initially agreed for the marriage of the petitioner with the defacto complainant, subsequently took 'U' turn and stated that they are not willing.

11.It is evident from the records that though this Court had attempted for amicable settlement as requested by the learned counsel for both the parties, the same was not of fruitful.

12.Considering the seriousness and gravity of the offence alleged and also taking note of the fact that the defacto complainant was only 17 years at the time of alleged occurrence and consequently invoking of provisions of POCSO Act and also the fact that the investigation is pending as stated by the learned Additional Public Prosecutor, this Court is not inclined to grant anticipatory bail to the petitioner.

13.In the result, this Criminal Original Petition is dismissed.

sd/-

23/11/2021

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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 INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THIRUCHENDUR,
THOOTHUKUDI DISTRICT.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to Mr.C.MAYIL VAHANA RAJENDRAN, Advocate (SR-8423[I] dated 23/11/2021)

+1 CC to Mr.K.VEILMUTHU, Advocate (SR-8460[I] dated 24/11/2021)

ORDER

IN

CRL OP(MD) No.10702 of 2021

Date :23/11/2021

DAS

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