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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15.09.2021

PRESENT

The Hon'ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.12017 of 2021

Kannan

... Petitioner/Accused No.1

Vs

State Rep. by
The Inspector of Police,
All Women Police Station,
Manamadurai,
Sivagangai District.
(Crime No.05/2021).

... Respondent/Complainant

For petitioner : M/s.N.Mohideen Basha, Advocate.

For Respondent : M/s.T.Kottai Chamy
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail Crime No.05 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 417, 406, 376, 506(i) of IPC and Section 4 of Dowry Prohibition Act, in Crime No.05 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant Shanmugapriya, who is aged 26 years and working as temporary professor in SBK College, is having love affair with the petitioner/A1 and on 18.09.2019 and on some other dates, the petitioner had physical relationship with the defacto complainant by promising that he will marry her. When the defacto complainant asked him to marry her, he procrastinated the same. Hence, she along with



her father informed the petitioner's parents about their relationship. They refused the same and when the defacto complainant and her father insisted for marriage, they demanded 80 sovereigns of gold as dowry and also criminally intimidated the defacto complainant. Hence, the case.

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3.The learned counsel for the petitioner submitted that the occurrence was taken place in the year 2019, for which a complaint has been lodged in the year 2021. He further submitted that the defacto complainant claims to be a Ph.D. holder and the petitioner is a police constable and it is quite unbelievable that she had sexual intercourse, that too several times, on a false promise. He further submitted that even according to the defacto complainant, it is a consensual sex and they loved each other for the past 6 years and due to some misunderstanding and in order to wreck vengeance, she lodged the present complaint. He had also circulated the messages which has been spoken by the defacto complainant.

4.The learned Government Advocate (Crl. Side) submits that the investigation is yet to be completed.

5.The fact remains is that the defacto complainant, who is aged about 26 years and a Ph.D. holder, permitted the petitioner to have premarital physical relationship, knowing the consequences. Considering the nature of allegation against this petitioner the age of the parties and their status, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Manamadurai, 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 learned Magistrate concerned and on further conditions that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

(b)the petitioner shall report before the respondent police as and when required for interrogation;

(c)the petitioner shall not tamper with the 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]**; and;

(f) if the accused/ petitioner thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

Sd/-
15/09/2021

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

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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,
MANAMADURAI.
2. THE CHIEF JUDICIAL MAGISTRATE,
SIVAGANGAI DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, MANAMADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.12017 of 2021
Date :15/09/2021