



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 17.12.2021

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.20093 of 2021

Rajkumar ... Petitioner/1st Accused

Vs

The State rep.by
The Inspector of Police,
T.Ramanathapuram Police Station,
Madurai District.
(Crime No.72 of 2021)

... Respondent/Complainant

For Petitioner : M/s.N.Venkatesh, Advocate.

For Respondent : M/s.RMS.Sethuraman
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.72 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 147, 294(b), 417, 376 and 506(i) IPC in Crime No.72 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner/first accused and one Chitra loved each other and by giving a false promise, the petitioner had sexual intercourse with her. Thereafter, the first accused performed the marriage with another woman. Hence, this complaint.



3. In the earlier petition filed by the petitioner and other accused for anticipatory bail, this Court has granted anticipatory bail to the co-accused only, namely, A.2 to A.4 and dismissed the petition as against the present petitioner/A.1, who is the main accused.

4. The learned counsel appearing for the petitioner has relied on the judgment of the Honourable Supreme Court in **Maheshwar Tigga vs. The State of Jharkhand in Crl.A.No.635 of 2020 dated 28.09.2020** that having sexual intercourse on the false promise to marry will not attract the offence under Section 376 IPC. But the said decision referred by the counsel for the petitioner is rendered in an appeal filed challenging the conviction made under Section 376, 323 and 341 IPC. The Honourable Supreme Court has specifically observed that if prosecution has proved that the accused intentionally made a fraudulent misrepresentation from the very inception and the prosecutrix gave her consent on a misconception of fact, the offence of rape under Section 375 IPC is clearly made out.

5. The learned Additional Public Prosecutor for the respondent police would submit that the investigation is not yet completed.

6. Considering the above, the pleas now raised can only be decided at the time of trial. Considering the nature of the charges levelled against the petitioner and also the facts that the investigation is pending and that there is no change of circumstances since the dismissal of the earlier petition, this Court is not inclined to grant anticipatory bail to the petitioner.

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

Sd/-

17/12/2021

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/ /2021

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

CSM

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.



1. THE INSPECTOR OF POLICE,
T. RAMANATHAPURAM POLICE STATION,
MADURAI DISTRICT.

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

ORDER
IN
CRL OP (MD) No.20093 of 2021
Date :17/12/2021

SP/VR/SAR I/30/12/2021/3P/3C