



IN THE HIGH COURT OF JUDICATURE AT MADRAS
(Criminal Jurisdiction)

Friday, the Eighteenth day of February Two Thousand Twenty Two

WEB COPY

PRESENT

The Hon`ble Mr Justice R.PONGIAPPAN
CRIMINAL ORIGINAL PETITION No.4004 of 2022

VIGNESHWAR

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
TAMBARAM W35 AWPS, ST.THOMAS MOUNT,
CHENGALPATTU DISTRICT.
CR.NO.05/2022.

For Petitioner : M/S.S.SENTHILVEL Advocate

For Respondent : MR. S.SANTHOSH, Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Sections 417 and 420 of I.P.C. in Crime No.05 of 2022, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the 1st husband of the defacto complainant has died in an accident, later the petitioner and the defacto complainant has become friends through Facebook and they fell in love with each other. It is alleged that the petitioner without the knowledge of his parents, married the defacto complainant and indulged in sexual intercourse with her, thereby, she became pregnant afterwards after knowing the same, on instruction of the petitioner, she aborted the foetus. Thereafter, the petitioner deserted defacto complainant and also tried to re-marry another woman. Therefore, based on the complaint made by the defacto complainant, the Law Enforcing Agency has registered a case against the petitioner for the above said crime.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that during the relevant point of time, the petitioner and the defacto complainant fell in love with each other and after getting consent from the defacto complainant, the petitioner has committed the alleged



offence. Without understanding the same, in this case, the petitioner was arrayed as an accused. Hence, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police raised an objection stating that the investigation is still pending. However, he admits that the alleged occurrence had happened with the consent of the defacto complainant.

5. The submissions made by the learned counsel appearing for either sides are considered.

6. The respondent police registered a case against the petitioner for the offence punishable under Sections 417 and 420 of IPC. On going through the averments found in the FIR the same would disclose the fact that during the relevant point of time, after getting consent from the defacto complainant, the petitioner herein indulged in the sexual activities. Further, after knowing the pregnancy, the petitioner requested the defacto complainant to abort the foetus and the said request made by the petitioner also complied with by her. Otherwise, both the petitioner and the defacto complainant are majors and knowing the consequences of the said illegal relationship, they had committed this offence. Hence, taking note of all the above said aspects into consideration, this Court is inclined to grant anticipatory bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Learned Judicial Magistrate No.I, Tambaram, on condition that the petitioner shall execute bond for a sum of Rs.25,000/- (Rupees Twenty Five 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 conditions that:

(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned 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 daily at 10.00 a.m., until further orders;

(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]; and;

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

-sd/-

18/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned
TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I, TAMBARAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU(FOR INFORMATION)

3 THE INSPECTOR OF POLICE,
TAMBARAM W35 AWPS, ST.THOMAS MOUNT,
CHENGALPATTU DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.S.SENTHILVEL Advocate on payment of necessary charges

CRL OP.4004/2022

Date :18/02/2022

RVR 25/02/2022