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IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Eighteenth day of May Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.11487 of 2022

S.SRIRAM PRABHU

[PETITIONER / ACCUSED]

Vs

STATE REP. BY
INSPECTOR OF POLICE,
W-27, ALL WOMEN POLICE STATION,
VADAPALANI,
CHENNAI - 600 026.
(CRIME NO.7 OF 2022)

[RESPONDENT]

For Petitioner : M/S.M.MOHAMED RIYAZ Advocate

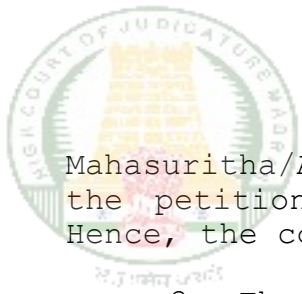
For Respondent : MR.A.DAMODARAN, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 376, 420 and 506(i) of IPC in Crime No.7 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant lodged a complaint alleging that in the year 2017 she had love affair with the petitioner. Due to the love affair the petitioner borrowed a sum of Rs.7,20,000/- from the defacto complainant as a loan. Thereafter, he used to avoid her phone calls and failed to repay the loan amount. While being so, in the year 2021 the petitioner assured her that he also get divorce from his wife and after showing the divorce petition he had physical relationship with the defacto complainant. Later, the defacto complainant came to understand that the petitioner also got married with another women namely



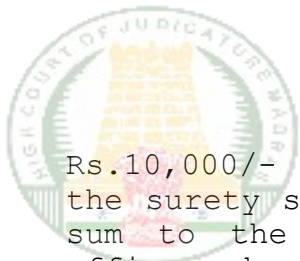
Mahasuritha/A2 when the defacto complainant enquired about the same, the petitioner and the A2 threatened her with dire consequences. Hence, the complainant.

3. The learned counsel for the petitioner would submit that there are two limbs of allegations as against the petitioner. The first limb of allegation is that when the defacto complainant fall in love with the petitioner, under pretext of marriage the petitioner borrowed a sum of Rs.7,20,000/- from the defacto complainant and thereafter failed to repay the said amount. The second limb of allegation is that, in the year 2021 again the petitioner assured that he also divorced his wife and promised to marry the defacto complainant. After showing the divorce petition he had physical relationship with the defacto complainant. When the petitioner borrowed a sum of Rs.7,20,000/- and failed to repay the same, no prudent woman agreed to have physical relationship with the person who had cheated to the tune of Rs.7,20,000/-. Further, he submits that the defacto complainant had full knowledge about the marriage of the petitioner and after knowing the above marriage no prudent woman will agreed for physical relationship to get married after divorce. Further, he also relied upon the judgment of this Court in SCC 14980 in the case of M.MuthuKumar Vs Inspector of Police in CrI.O.P. (MD) No.6070 of 2019, which held that, the defacto complainant fully aware that the petitioner is a married man and he is the father of the two children. Thereafter, the victim consented to have physical relationship with the accused. Therefore, there is no offence made out as against the petitioner to prosecute him.

4. The learned Additional Public Prosecutor would submit that under the pretext of marriage the petitioner is being the married man cheated the defacto complainant and had physical relationship with her. That apart, he also borrowed a sum of Rs.7,20,000/- and thereby cheated the defacto complainant without repaid the same.

5.As rightly pointed out by the learned counsel for the petitioner that there are two limbs of allegations as stated above. No prudent woman will agree for physical relationship with the person who had cheated to the tune of Rs.7,20,000/-. Further, the defacto complainant fully aware that the petitioner is married man and after showing the divorce petition between the petitioner and his wife she agreed to have physical relationship. Therefore, the custodial interrogation of the petitioner does not required in this case. Hence, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned XVII Metropolitan Magistrate, Saidapet, on condition that the petitioners shall execute a separate bond for a sum of



Rs.10,000/- (Rupees ten thousand only) with two sureties, one among the surety shall be a blood relative of the accused, 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, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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 appear before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

-sd/-
18/05/2022

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 XVII METROPOLITAN MAGISTRATE,
SAIDAPET, CHENNAI

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-27, ALL WOMEN POLICE STATION,
VADAPALANI,
CHENNAI - 600 026.

+1 CC to M/S.M.MOHAMED RIYAZ Advocate on payment of necessary
charges SR.No. 7245

CRL OP.11487/2022

Date :18/05/2022

SP(20/05/2022)