



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 24/02/2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.517 of 2022

A.Paramasivam ... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Pudukottai,
Thoothukudi District.
Cr.No. 10 of 2021.

... Respondent/Complainant

P.Subbammal ... Intervener/Mother of the
Victim
In CRL.MP(MD).2749/2022 in
CRL.OP(MD).517/2022

For Petitioner : Mr.C.K.CHANDRASEKAR, Advocate
for Mr.ASHOK.S, Advocate

For Respondent : Mr.E.ANTONY SAHAYA PRABAHAR,
Additional Public Prosecutor

For Intervenor : Mr.J.SANKARA PANDIAN, Advocate

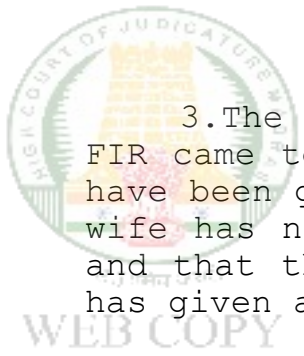
PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No.10 of 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 9(n),9(1) and 10 of POCSO Act, 2012, in Crime No. 10 of 2021, seek anticipatory bail.

2.The case of the prosecution is that the petitioner being the father of the defacto complainant, misbehaved with his own daughter. When the defacto complainant, who is none other than the wife of the petitioner, questioned the same, the petitioner assaulted her. Hence the complaint.



3.The learned counsel for the petitioner would submit that the FIR came to be registered on the basis of the complaint alleged to have been given by the wife of the petitioner, that the petitioner's wife has not preferred any complaint as alleged by the prosecution and that the police has registered FIR as if the petitioner's wife has given a complaint.

4.The learned counsel for the intervenor would also submit that the wife of the petitioner has not preferred any complaint as alleged by the prosecution and that there was no such occurrence as alleged by the prosecution.

5.The Additional Public Prosecutor appearing for the respondent police would submit that though the defacto complainant preferred the complaint, now she has taken 'U' turn and disowned her statement. He would further submit that in the statement recorded under Section 164 Cr.P.C., the victim has also not implicated the petitioner and she has stated that whatever stated before the police is not true.

6.Moreover, the petitioner's application for quashing the FIR in Crl.OP(MD)No.13029 of 2021 was dismissed by this Court, by observing that the petitioner's contentions and remedies cannot be gone into at this stage.

7.Considering the facts and circumstances of the case and also the facts that defacto complainant and the victim have disowned their statements, this Court is inclined to grant anticipatory bail to the petitioners with certain conditions.

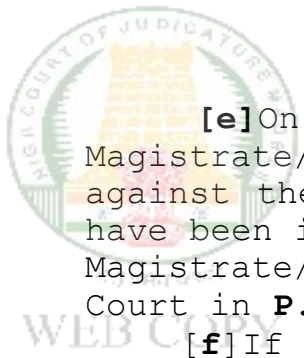
8.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judge Special Court for POCSO Act Cases, Thoothukudi, on condition that the petitioner shall execute a 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 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 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 daily at 10.30 a.m., for a period of one month and thereafter, 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]**.

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

sd/-

24/02/2022

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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 JUDGE
SPECIAL COURT FOR POCSO ACT CASES
THOOTHUKUDI
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PUDUKOTTAI, THOOTHUKUDI DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.ASHOK.S Advocate SR.No.1461

ORDER

IN

CRL OP(MD) No.517 of 2022

Date :24/02/2022

SA/PN/SAR.3/07.03.2022/3P/5C