



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 17.02.2022
PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.2739 of 2022

Arockiya Jaysen

... Petitioner/Accused No.1

Vs

The State through
The Inspector of Police,
Kumbakonam All Women Police Station,
Thanjavur District.
(Crime No.9 of 2019)

... Respondent/Complainant

S.Sharmila Bharvin

... Intervener/De-facto
Complainant
In Cr1.MP(MD).2464/2022

For Petitioner : Mr.A.HAJA MOHIDEEN,
Advocate
For Respondent : Mr.E.ANTONY SAHAYA PRABAHAR,
Additional Public Prosecutor
For Intervenor : Mr.K.S.DURAI PANDIYAN,
Advocate

PETITION FOR BAIL Under Section 439 of Cr.P.C.

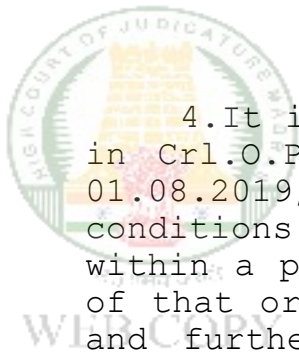
PRAYER :- For Bail in Crime No.9 of 2019 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1, who was arrested and remanded to judicial custody on 17.11.2021 for the offences punishable under Sections 417, 506(1) and 376 IPC, in Crime No.9 of 2019, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and the defacto complainant are belonging to different community, they have loved each other and by giving false promise, the petitioner had sexual intercourse with the defacto complainant and thereafter refused to marry her and that the petitioner and other accused had also threatened her. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution.



4.It is not in dispute that the petitioner has filed a petition in Crl.O.P.(MD)No.10484 of 2019 and this Court, vide order dated 01.08.2019, has granted bail to the petitioner by imposing certain conditions that the petitioner has to marry the defacto complainant within a period of three months from the date of receipt of a copy of that order as per the undertaking given by him in his affidavit and further directed the defacto complainant not to insist the petitioner to convert him into her religion.

5.Since the petitioner has not complied with the condition imposed on the petitioner, the defacto complainant filed a petition in Crl.M.P.No.477 of 2021 and the learned Mahila Judge has passed an order, dated 17.11.2021, cancelling the bail and consequently, the petitioner was arrested and remanded to judicial custody on 17.11.2021 itself.

6.The learned counsel for the intervenor would submit that since the petitioner has not complied with the undertaking given by him and also the condition imposed by this Court, he should not be released on bail.

7.The learned Additional Public Prosecutor would submit that investigation has already been completed and charge sheet was laid in S.C.No.70 of 2021 and the case is pending for trial.

8.Considering the above facts and circumstances and also the facts that the petitioner is in judicial custody from 17.11.2021 and that the case is pending for trial, this Court is inclined to grant bail to the petitioner subject to the following conditions:

9.Accordingly, the petitioner is ordered to be released on bail on his executing 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 Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur.

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii)the petitioner shall report before the trial Court daily at 10.30 a.m., on all working days until further orders;

(iii)the petitioner shall not tamper with evidence or witness;

(iv)the petitioner shall not abscond during trial;

(v)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]***.

(vi) If the accused / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

17/02/2022

/ TRUE COPY /

17/02/2022

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
MAHALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
THANJAVUR.
- 2 THE OFFICER INCHARGE
DISTRICT JAIL, PUTHUKOTTAI.
- 3 THE INSPECTOR OF POLICE,
KUMBAKONAM ALL WOMEN POLICE STATION,
THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.2739 of 2022

Date : 17/02/2022

SA/PN/SAR.3/17.02.2022/3P/5C