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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11/05/2022

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD). No.9091 of 2022

1. Peer Mohideen @ Beer Muhamed
2. Mohammed Pannaiyar
3. Habibul Ansari ... Petitioners/Accused Nos.1 to 3

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Tenkasi, Tenkasi District.
Crime No.8/2022. ... Respondent/Complainant

For Petitioners : Mr.K.Anand,
Advocate.
For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Crime No. 08/2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offences under Sections 417, 294 (b) & 506(i) of IPC in Cr.No.8 of 2022, on the file of the respondent police, seek anticipatory bail.

2.The case of the prosecution is that the defacto complainant is a widow aged about 50 years. Her husband passed away prior to 30 years. On 01.07.2021, the 1st petitioner / accused forcibly had sexual intercourse with the defacto complainant by giving a false promise that he will marry her and continuously threatened the defacto complainant for having sexual relationship and the defacto complainant consented the 1st petitioner for having sexual intercourse and thereafter, the 1st petitioner refused to marry the defacto complainant. In the mean while, the first petitioner joined with the 2nd and 3rd petitioners abused the defacto complainant with

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filthy language and threatened her with deadly weapon. Hence, the law enforcing agency registered a case against the petitioners.

3.The learned counsel appearing for the petitioners would submit that the petitioners did not commit any offence as alleged by the prosecution. He further submitted that the 1st petitioner is already a married man and a false allegation has been made against the petitioners. Accordingly, they pray for anticipatory bail.

4.The learned Government Advocate(Crl.side) appearing for the respondent police would submit that the defacto complainant is a widow and the 1st petitioner is a married man. He further states that investigation is pending.

5. A perusal of the complaint reveals that on 01.07.2021, the 1st petitioner forcibly entered into the house of the defacto complainant and had a sexual intercourse. Subsequently, the 1st petitioner had sexual intercourse with her by giving a false promise to marry. Since the 1st petitioner refused to marry the defacto complainant, the present complaint was registered. However, the incident happened on 01.07.2021. But the complaint was registered after one year.

6. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioners. Accordingly, the petitioners are 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, Shencottah, on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only)each 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 condition that:

(a)the petitioners 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 petitioners shall report before the respondent police daily at 10.30 a.m until further orders;

(c)the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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,

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

sd/-
11/05/2022

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13/05/2022
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 JUDICIAL MAGISTRATE,
SHENCOTTAH.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, TENKASI,
TENKASI DISTRICT.

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

+1. CC to Mr.K.ANAND, Advocate SR.No.4582.

ORDER
IN
CRL OP(MD) No.9091 of 2022
Date :11/05/2022

rmi/btr
MK/VR/SAR.IV/13.05.2022/3P/6C

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