



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 13/06/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.9879 of 2022

N.Imran @ N.Dhaarrun

... Petitioner/Accused No.1

Vs

The State rep.by,
The Sub-Inspector of Police,
AWPS-Town,
Tirunelveli District.
Crime.No.5 of 2022.

... Respondent/Complainant

For Petitioner : Mr.J.Lajapathi Roy,
for G.Anto Prince,
For Respondent : Mr.B.Thanga Aravindh,
Government Advocate (Crl.Side)
For Intervenor : Mr.P.T.Ramesh Raja,

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

PRAYER :-

For Bail in Crime No.5 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 06.05.2022 for the offences punishable under Sections 313, 376, 417, 467, 468, 469, 471 and 506(1) IPC, in Crime No.5 of 2022, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner, who belongs to Islam by alleging that he converted himself to Hinduism and changed his name as Dhaarrun, had married the defacto complainant in the year 2019 and both of them had lived as husband and wife; that subsequently the petitioner had harassed the defacto complainant by demanding dowry; that he had also beaten her, which resulted in abortion, that the defacto complainant came to know in the year 2021 that the petitioner had forged all the documents and is still following Muslim Religion; that when the same was questioned, the petitioner had beaten and humiliated her; that the accused Nos.2 to 4, who are relatives of the petitioner, had



contacted the *defacto* complainant and informed that the petitioner will not convert to Hinduism and if she wanted to live with the petitioner, she will have to convert to Islam and that thereby, the petitioner has cheated the *defacto* complainant.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He has also produced the copy of the Government Gazette issued by the Tamil Nadu Government to show that he had changed his name from N.Imran to N.Dhaarrun as he had converted to Hinduism on 25.10.2019.

4.The learned counsel for the Intervenor as well as the learned Government Advocate (Criminal Side) would submit that the Birth Certificate and the Community Certificate produced by the petitioner are the forged and fabricated documents. But the learned Government Advocate (Criminal Side) has produced the letter sent by the Corporation Welfare Officer attached to the Tirunelveli Corporation to the respondent Police, wherein it has been stated that the Birth Certificate of the child born to Nazir Sherif and Santha Jabin was not genuine. He would submit that the genuineness of the community certificate is yet to be ascertained.

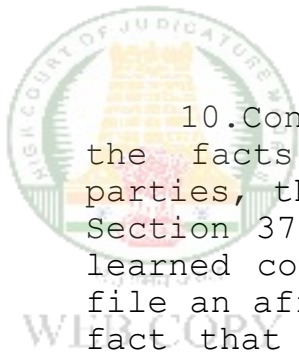
5.No doubt, the learned Government Advocate (Criminal Side) would submit that the Gazette notification produced by the petitioner is genuine one and as per the said notification, he had changed his name as N.Dhaarrun.

6.As rightly contended by the learned counsel for the petitioner, the main offence alleged against the petitioner is under Section 376 IPC, but admittedly, there are no averments in the complaint nor any other materials *prima facie* for the offence under Section 376 IPC and as rightly pointed out by the learned counsel for the petitioner, the *defacto* complainant herself in her complaint had admitted that both of them had married and were living together as husband and wife.

7.It is not in dispute that the *defacto* complainant is now in advance stage of pregnancy and she is now residing at Malaysia.

8.The learned counsel for the Intervenor would submit that the *defacto* complainant is not having any objection to grant bail or interim bail, but on the condition that the *defacto* complaint has to file an affidavit admitting the paternity of the child to be born to the *defacto* complainant and also to the factum that he had converted to Hinduism and his name is Dhaarrun as of now.

9.The learned counsel for the petitioner, on instructions, would submit that the petitioner is ready and willing to file such an affidavit before the concerned Court.



10.Considering the facts and circumstances of the case and also the facts that there existed matrimonial dispute between the parties, that there is no trace of allegations for the offence under Section 376 IPC and also taking note of the submission made by the learned counsel for the petitioner that the petitioner is ready to file an affidavit as claimed by the defacto complainant and also the fact that the petitioner is in judicial custody from 06.05.2022, this Court is inclined to grant bail to the petitioner subject to the following conditions:

11.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 Judicial Magistrate No.IV, Madurai.

(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 file an undertaking affidavit as agreed by him, before the concerned Judicial Magistrate with necessary application. On filing of such undertaking affidavit, the concerned Judicial Magistrate shall accept the sureties.

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

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

(v)the petitioner shall not abscond during trial;

(vi)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]***.

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

sd/-

13/06/2022

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13/06/2022

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 NO.IV,
MADURAI.

2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.

3. THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUNELVELI DISTRICT.

4. THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI, TIRUNELVELI.

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

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-5450[I] dated 13/06/2022)

ORDER

IN

CRL OP(MD) No.9879 of 2022

Date :13/06/2022

das

USK/VR/SAR-I/13.06.2022/4P/7C