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Crl.OP(MD)N



22

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

Dated: 06/07/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP(MD)No.10799 of 2022

Mohamed Fizal

... Petitioner/Sole Accused

Vs.

The State rep. By
The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai City,
(Crime No.26 of 2022)

... Respondent/Complainant

S.KANIMOZHI

... Petitioner / Intervener /
Defacto Complainant
in Crl MP(MD)No.7110 of 2022

For Petitioner : Mr.S.Poornachandran, Advocate.
For Respondent : Mr.B.Thanga Aravindh
Government Advocate (Criminal side)
For Intervenor : Mr.D.Deepamathi, Advocate

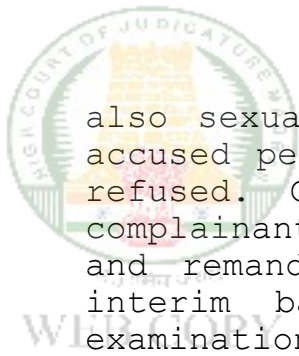
PETITION FOR BAIL under Sec.439 of Cr.P.C

PRAYER :-For Bail in Crime No.26 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as sole accused was arrested, on 19/05/2022 and remanded to judicial custody for the alleged offences punishable under sections 417 and 376 IPC, in Crime No.26 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the de-facto complainant lodged a complaint stating that she had contact with the accused person through face-book and later, they became lovers. She joined in Anantha Traders at Anna Nagar. During that time, the accused used to visit her. He has also promised to marry her, after his education is completed. He was also informed that in 2015, she married one Santhosh Kumar and later divorced. But however, the accused person stated that he will not mind it. In the course of time, there was



also sexual assault and the de-facto complainant pressured the accused person for marriage. But by citing the religious issue, he refused. On the basis of the complaint given by the de-facto complainant, the case was registered and the accused was arrested and remanded to judicial custody and later, he was released on interim bail by this court for the purpose of writing the examination, as per the order, dated 28/06/2022 and later, he also surrendered before the authorities on 03/07/2022.

3. Now the learned counsel appearing for the petitioner would submit that the petitioner is aged 22 years, whereas the de-facto complainant is 25 and she was also a divorcee. The fact of divorce has been suppressed by her. On coming to know the divorce issue, he stopped the contact with the de-facto complainant. Only after that, the above said false complaint has been lodged. According to him, both are majors and now with consent, they had physical relationship. So according to him, the offence under section 376 IPC may not be attracted. If at all only, section 417 IPC will be attracted, which is also bailable in nature.

4. But the learned Government Advocate (Criminal side) appearing for the respondent/State and the learned counsel appearing for the intervenor would submit that the fact of divorce was shown and known to the petitioner and having known all these things only, he had sexual intercourse with the de-facto complainant and later, citing the religious issue, he refused to marry her.

5. The 164 statement of the victim girl is also recorded. Reading of the statement shows that there is a long story. On the basis of the promise made by the petitioner, she left the parental home. But later, the petitioner avoided her. In spite of repeated contact, the petitioner purposely avoided the telephone calls. She also contacted the father. Because of the above said issue, she also consumed poison. She was also taken to the hospital. In the hospital, she was taken care by the petitioner. At one point of time, she has stated that she is pregnant. The first accused taken the de-facto complainant for medical examination. But further record was awaited.

6. In the facts and circumstances of this case, I am of the considered view that the petitioner is not entitled for bail. If he is released on bail, there is every possibility of tampering the witnesses and absconding. So, this criminal original petition is **dismissed**.

sd/-

06/07/2022

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/07/2022

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 INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THALLAKULAM,
MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10799 of 2022
Date :06/07/2022

ER
MK/VR/SAR.I/11.07.2022/3P/4C