



WEB COPY



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 14/07/2022

PRESENT

The Hon`ble Mr.Justice G.ILANGOVAN

CRL OP(MD) . No.11268 of 2022

M.Anburaj

... Petitioner/Single Accused

Vs

State rep.by
The Inspector of Police(L & O),
Keeraithurai Police Station,
Madurai.
(Crime.No.296/2022).

... Respondent/Complainant

For Petitioner : M/s.Karthikeyan V, Advocate

For Respondent : Mr.RM.Anbunithi,
Additional Public Prosecutor

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

PRAYER :-

For Anticipatory Bail in Crime No.296/2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 5(m), 5(n) r/w 3(d) of POCSO Act, in Crime No.296 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the accused and the defacto complainant are husband and wife. She lodged a complaint before the respondent Police stating that she was married to the accused on 10.11.2019 and out of their wedlock, a male child was born to them. Right from the marriage, they were residing at Hosur. Three months after the child birth, the behaviour of her husband started changing and he said that she should not touch him. On one



occasion, she found that the accused was in homosexual relationship with one person. On searching his cell phone, she found obscene videos. When that was enquired, the accused started harassing her. One day, she found that the accused was misbehaving and sexually assaulting her son and on seeing that she warned him and lodged a complaint. Seeking anticipatory bail, this petition has been filed by the husband/accused/petitioner.

3. It is unfortunate to note that the defacto complainant is making such an allegation against her husband. The investigation Officer also appeared before this Court and he has stated that after the marriage, difference of opinion arose between husband and wife, due to the homosexual relationship of the petitioner. So they are living separately. At the time of compromise talks and also undertaking given by the petitioner, the defacto complaint started living with him. On one occasion, the petitioner misbehaved with their child, who is 1 ½ years old and also sexually assaulted him. That was witnessed by the defacto complainant and lodged the complaint.

4. The learned counsel for the petitioner submitted that absolutely there was no misbehavior on the part of the petitioner. Only to obtain divorce from him, such an allegation is made by the defacto complainant.

5. I am unable to appreciate this line of argument. Whether the occurrence is true or not, is a matter for consideration by the Investigation Officer. The general character of the petitioner as well as his behaviour and movement with others must be closely watched for the purpose of finding the truth. The petitioner is directed to surrender his mobile phone immediately to the respondent Police, for the purpose of investigation, who, in turn, send the same to the Regional Forensic Science Laboratory for examination, to find out whether there were any obscene videos stored/deleted. The petitioner must also subject himself to interrogation by the respondent Police.

6. The petitioner is working in Indian Bank, Hosur. Considering his official position, I am inclined to grant anticipatory bail to the petitioner, on condition that

- that the petitioner must subject himself to interrogation by the respondent Police and co-operate with the investigation;
- that the petitioner must surrender his mobile phone immediately to the respondent Police. The respondent Police to send the same to the Regional Forensic Science Laboratory, for examination.
- During the course of investigation, if custodial interrogation of the petitioner is required, the respondent Police may approach the concerned Court for appropriate orders.



7. With the above conditions, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, before the learned Judicial Magistrate No.IV, Madurai on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and since the petitioner is working in Indian Bank, Hosur, he shall appear before the respondent police on every Sunday at 10.30 a.m. until further orders. The petitioner shall comply with the condition stipulated under Section 438 Cr.P.C. scrupulously.

8. The petitioner shall appear before the concerned Magistrate within a period of 15 days from the date on which the order copy made ready, failing which, the petition for anticipatory bail stands dismissed.

Sd/-
14/07/2022

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/ /2022
Sub-Assistant Registrar (C.S.I)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PNM

TO

1. THE JUDICIAL MAGISTRATE NO.IV,
MADURAI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI.
3. THE INSPECTOR OF POLICE (L & O),
KEERAITHURAI POLICE STATION,
MADURAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.KARTHIKEYAN V Advocate SR.No.7164

ORDER
IN
CRL OP(MD) No.11268 of 2022
Date :14/07/2022