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

Date : 27/07/2022

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD) . No.11773 of 2022

Patturaj

... Petitioner/1st Accused

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Thiruchendur,
Thoothukudi District.
(Crime .No.7/2022).

... Respondent/Complainant

For Petitioner : Mr.Ramakrishnan K K, Advocate.

For Respondent : Mr.P.Kottai Chamy,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.7 of 2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner is facing charges under Sections 417, 376, 313 and 323 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act in Crime No.7 of 2022 on the file of the respondent police.

2. The case of the prosecution in brief is as follows:-

3. The defacto complainant, who is the victim girl, lodged a complaint stating that the petitioner is a relative to her. In November, 2019, they were contacted. In the course of time, the accused promised her that he will marry her. She accepted the aforesaid proposal of love and for about 4 years, they were contacted.



4. On 25.10.2020, the accused invited the defacto complainant to his parental home to discuss about the marriage. Believing his words, she went to the house and the parents of the accused promised her that her marriage can be arranged after the marriage of their elder son. That was also believed by her. The accused asked her to have sexual intercourse. That was also consented and that was videographed. After that, she went to her house. Such sort of physical contact continued for more than 10 times. On 07.02.2022, the marriage of the elder brother of the accused was performed and after that, there was persistent request by her to arrange the marriage. But the accused was evading. On 05.02.2022, she lodged the complaint. In the enquiry, the accused person promised to marry her.

5. On 27.02.2022, he again contacted her through phone and also asked her to come to the house for marriage. She went to the house and at that time, the father of the accused drove her away. She was also physically assaulted, over which she lodged the complaint before the Thattarmadam Police Station on 28.02.2022. It was also enquired in CSR.No.113 of 2022. So, on the basis of the complaint, the present case has been registered and during the course of investigation, the statement of the victim girl under Section 164(3) Cr.P.C. was recorded and medical examination was also undertaken.

6. Seeking anticipatory bail, this petition has been filed on the ground that even as per the allegation that has been made in the FIR, since the victim girl is aged about 23, that can be construed only as a consensual relationship and no criminality much less offence under Section 379 Cr.P.C. will be attracted. To support his point, the learned counsel for the petitioner would rely upon the judgment of the Hon'ble Supreme Court in **Crl.A.No.962 of 2022 (Ansaar Mohammad Vs. The State of Rajasthan and another)** dated 14.07.2022.

7. In the aforesaid case, there was relationship between the victim girl and the accused for about 4 years. There was also an allegation to the effect that the victim girl was willingly stayed with the accused person. According to the Hon'ble Supreme Court, if the relationship was not working out, that cannot be a reason for lodging the First Information Report. So, the learned counsel for the petitioner would heavily rely upon this observation.

8. Here, there is specific allegation to the effect that she was promised and undertaking was also given during the course of enquiry in the Police Station for marriage, in spite of which she went back. She was physically assaulted by the father of the petitioner and video was also taken, when they were having physical contact. During the course of 164(3) statement, the victim girl has given elaborate accounts about the occurrence. While reading the statement, *prima facie* it is seen that the petitioner right from the beginning had criminal intentions. So, when *prima facie* ground has been made out even on the basis of the statement of the victim girl, the



contention on the part of the petitioner that it was consensual in nature is out of place and cannot be accepted.

9. Similarly, there is also serious allegation to the effect that she was subjected to medication for aborting the pregnancy. So, these are the matters, which can be thoroughly investigated by subjecting this petitioner to custodial interrogation. Such an offence of this nature cannot be lightly taken to say that it was only a consensual in nature. The petitioner is not entitled to get the discretionary relief of anticipatory bail.

10. This Criminal Original Petition deserves to be dismissed and accordingly, dismissed.

Sd/-

27/07/2022

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

MM

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,
THIRUCHENDUR,
THOOTHUKUDI DISTRICT.
2. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.11773 of 2022

Date : 27/07/2022