



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 11.01.2022

PRESENT

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD) . No.19874 of 2021

Pandi ... Petitioner/Accused No.1

Vs

State through
The Inspector of Police,
Elumalai Police Station,
Madurai District.
(Crime No.239 of 2021) ... Respondent/Complainant

B.Selvapraveena ... Petitioner/3rd Party
Defacto Complainant
(in Crl.MP(MD)No.472/2022)

For Petitioner : M/s.K.Jeyamohan, Advocate.

For Respondent : M/s..M.Muthumanickam
Government Advocate(Crl. side)

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

PRAYER :-

For Anticipatory Bail in Crime No.239 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/A.1, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 417, 376 and 506(1) IPC in Crime No.239 of 2021 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner by giving a false promise that he will marry the defacto complainant, had sexual intercourse with her. Thereafter, refused to marry her. Hence, the complaint.



3.The earlier anticipatory bail application filed by the petitioner was dismissed by this Court vide order dated 22.11.2021 in CrI.O.P. (MD)No.18240 of 2021.

4.The learned counsel for the petitioner would submit that the petitioner is innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner and the second accused has filed a petition in CrI.O.P. (MD)No.20917 of 2021 seeking orders to quash the proceedings of the FIR in Crime No.239 of 2021 and the learned Single Judge of this Court has passed an order, dated 04.01.2022, restraining the respondent herein from filing any final report.

5.The learned Government Advocate (CrI. side) for the respondent would submit that the victim has given a statement under Section 164(1) Cr.P.C., wherein, she had reiterated the complaint version that the petitioner on the false promise to marry her, had sexual relationship with her for several times and subsequently, refused to marry her. He would further submit that the petitioner and the defacto complainant were in love with each other and that the investigation is almost completed.

6.Considering the above facts and circumstances and also the facts that the petitioner and the defacto complainant were in love with each other and that investigation is almost completed as stated by the learned Government Advocate (CrI. Side) and also taking note of the interim order granted by this Court in CrI.O.P.(MD)No.20917 of 2021 and also the fact that the petitioner is not having any bad antecedents, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate No.II, Usilambatti, on condition that the petitioner shall execute 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 Magistrate concerned and on further conditions that:

(a)the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

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

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



(d) the petitioner 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 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]**; and;

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

Sd/-

11/01/2022

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

CSM

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.II,
USILAMPATTI.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
MADURAI DISTRICT.
3. THE INSPECTOR OF POLICE,
ELUMALAI POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.19874 of 2021

Date :11/01/2022

SP/VR/SAR III/24/01/2022/3P/5C