



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 10/01/2023

PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA
CRL OP(MD). No.582 of 2023

WEB COPY

Muthu

....Petitioner/Accused No.2

Vs.

State through,
The Inspector of Police,
Vattathikkottai Police Station,
Thanjavur District.
(In Crime No.511/2022).

... Respondent/Complainant

For Petitioner : Mr.S.Rameshkumar, Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-For Anticipatory Bail in Crime No.511/2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A2, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 5 (1) and 6 of POCSO Act, Sections 9 and 10 of Prohibition of Child Marriage Act and Sections 363 and 506(i) of I.P.C., in Crime No.511 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the defacto complainant, is that his minor daughter aged about 17 years, who was studying 12th Std., was found missing on 15.09.2022 and based on the complaint, case has been registered for the offence under "girl missing". Later, during the course of investigation, it was found that the first accused had kidnapped the victim and had committed penetrative sexual assault on her and for that, the petitioner and relatives abetted him. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and the case has been fabricated against him. He would further submit that there was a love affair between the victim girl and the first accused and both of them without informing their parents and relatives have eloped and they have married at Viralimalai Murugan Temple. In the



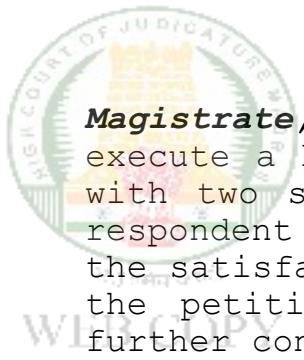
meanwhile, the father of the victim girl had given a complaint. On that, a case was registered under the caption for "girl missing" and later, when he came to know about the registration of the case, the first accused surrendered before the respondent police and the girl was subjected to medical examination and at that time of medical examination, the victim had stated that she had voluntarily eloped with the first accused and that they have married in the temple and lived as a husband and wife and that subsequently, the victim was handed over to her parents and later, due to the pressure of her family members, the victim had given a statement from the police, as if she was kidnapped by the first accused and that she was subjected to sexual assault when he had kept her in illegal detention for seven days. He would further submit that the perusal of the records shows that there was a previous love affair between the first accused and the victim girl and that the relationship was consensual in nature and only due to the pressure exerted by the parents of the victim girl, she has rescinded from her earlier statement given to the Doctor and given a statement as if the first accused had subjected her to sexual intercourse while she was kept in illegal detention and other accused have helped him. He would further submit that the allegation against the petitioner is he had accompanied the first accused and the victim girl while they performed marriage. He would also submit that the co-accused in this case has already been granted anticipatory bail by this Court by order dated 19.12.2022 in CrI.O.P(MD)No.22378 of 2022. Hence, he prays for grant of anticipatory bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that as per the statement of the victim girl, the first accused had compelled her to marry him and taken her at knife point to his sister's house and had subjected her to illegal detention for seven days and also committed penetrative sexual assault on her. The petitioner is arrayed as the second accused in this case. Hence, he opposed to grant anticipatory bail to the petitioner.

5.Heard. Perused the materials available on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and after perusing the materials available on record and considering the fact that the co-accused in this case has already been granted anticipatory bail by this Court by order dated 19.12.2022 in CrI.O.P(MD)No.22378 of 2022, this Court without expressing any opinion with regard to the merits of the case finds that it is a fit case for grant of anticipatory bail.

8. Accordingly, this Criminal Original Petition is allowed and 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, Pattukottai, on condition that the petitioner 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 respondent police or the police officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police Station everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday 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/-

10/01/2023

/ TRUE COPY /

/01/2023

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

TO

- 1 THE JUDICIAL MAGISTRATE,
PATTUKOTTAI.
- 2 THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM.
- 3 THE INSPECTOR OF POLICE
VATTATHIKKOTTAI POLICE STATION, THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.RAMESHKUMAR S Advocate SR.No.448.

ORDER IN

CRL OP(MD) No.582 of 2023

Date :10/01/2023

CM

MK/SSS/SAR III(24.01.2023) 3P 6C

<https://www.mhc.tn.gov.in/judis>