



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/02/2023

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PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.3501 of 2023

Muthumurugan

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Usilampatti,
Madurai District
In Crime No.03 of 2023.

... Respondent/Complainant

For Petitioner : K.Bairavan, 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.03 of 2023 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 417, 376, 506(i) IPC, in Crime No.03 of 2023, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Selvi is that she got married her cousin one Murugan and later, she came out of her matrimonial home and again married one Chellapandi, S/o.Thangavel and they lived as husband and wife for about 4 to 5 years and they also have one male child. During that time, the petitioner had a sexual intercourse with the defacto complainant, on giving a false promise that he will marry her, thereby, she became pregnant. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is innocent and a false case has been foisted against him. Even as per the complaint, the defacto complainant herself has



stated that she was already married with one Murugan and again married one Chellapandi and they lived as husband and wife for about 4 to 5 years and have one male child. Subsequently, without divorcing her second husband, the defacto complainant had a consensual affair with the petitioner. Therefore, her second husband had driven her out from the matrimonial home. Now, the defacto complainant has given a false complaint, as if, the petitioner had assured to marry her and had sexual intercourse. The petitioner is not responsible for the pregnancy of the defacto complainant. If necessary, he is ready to furnish blood samples for conducting DNA Test. The petitioner is innocent and prays to release the petitioner on anticipatory bail.

4.The learned Government Advocate (Crl.Side) submitted that the petitioner had sexual intercourse with the defacto complainant, on giving a false promise to marry her, thereby, she became pregnant. Hence, prays to dismiss the petition. However, he would submit that the defacto complainant earlier got married twice and have children and she has not obtained divorce from her second husband.

5.Heard the learned counsel appearing on either side and perused the materials placed before this Court, including the 164 Cr.P.C statement of the victim.

6.Taking into consideration the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.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, Usilampatti, Madurai District**, 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 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 everyday 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;

[g] In the event of respondent Police seeking blood samples of the petitioner to conduct DNA test, the petitioner is directed to furnish the same.

sd/-

23/02/2023

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/03/2023

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

PNM

TO

1 THE JUDICIAL MAGISTRATE
USILAMPATTI, MADURAI DISTRICT.

2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, MADURAI DISTRICT.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, USILAMPATTI, MADURAI DISTRICT.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.BAIRAVAN, Advocate (SR-2902[I] dated 24/02/2023)

ORDER

IN

CRL OP(MD) No.3501 of 2023

Date :23/02/2023

RS//SAR-2 (07.03.2023) 3P 6C