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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/02/2023

PRESENT

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

CRL OP(MD). No.10697 of 2022

Arivazhagan ... Petitioner/Sole Accused

Vs

1.The Inspector of Police,
Kumbakonam All Women Police Station,
Thanjavur District.
Crime.No.2 of 2022.

2. Vijayasanthi

(R2 Suo Motu Impleaded vide order dated
22.06.2022 in CRL OP(MD)No.10697 of 2022)

... Respondents/Complainants

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

For R1 : Mr.P.Kottaichamy,
Government Advocate (Crl.Side)

For R2 : Mr.Sathya Chidambaram, Advocate

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

PRAYER :-

For Anticipatory Bail in Crime No.2 of 2022 on the file of the
Respondent police.

[Offences amended vide order dated
22.02.2023 in Crl.M.P.(MD)No.2342 of
2023]

ORDER : The Court made the following order :-

The petitioner/Sole Accused who apprehends arrest at the hands
of the respondent police for the offences punishable under Sections
417, 420, 506(i) IPC @ 417, 420, 506(i) and 376 of I.P.C., in

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



Crime No.02 of 2022 on the file of the respondent police as anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant (XXXX), is that she has completed M.A. B.Ed. and whileso during the year 2012, she was studying B.A. English Literature, she got friendship with the petitioner, who was studying BBA and used to frequently speak over the mobile phone and later, it developed to love and the de-facto complainant had informed him that she would marry him after she secured a job and he also agreed for that and during 2019, she got job in a primary school and the accused also agreed that he would inform his parents and come and arrange for the marriage. Whileso during the year 2019, when she was in Ammapettai, the accused used to come and receive money from him. Later, there was a misunderstanding between them and the accused had threatened her stating that if she marries someone, he would kill her and when she had demanded the money, he had switched off his number and refused to speak to her and thereby, the de-facto complainant had given a complaint to recover the money. Later based on the statement recorded from her under Section 164 of Cr.P.C. that the accused had threatened her and had sexual intercourse with her and that the case was registered for the offence under Sections 417, 420 and 506(i) IPC and later altered into under Sections 417, 420, 506(i) and 376 of I.P.C.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent and a case of money dispute has been exaggerated and a false complaint has been given. He would further submit that in the complaint, dated 05.01.2022, the de-facto complainant has not stated anything about the physical affair between them and she had only stated that the petitioner in the guise of loving her, had received money and cheated her and she has not mentioned even about any single incident of them having any physical contact with each other, whereas, later, she has given a statement alleging that as if the petitioner had compelled her and had sexual intercourse with her and later cheated her. He would further submit that admittedly, there was a friendship from the year 2012 and it is not a case, where, the petitioner had induced the victim for the purpose of satisfying his lust. He would further submit that the petitioner and the de-facto complainant were college mates and they were studying from the year 2012 in the same college and thereby, he would seek for anticipatory bail.

4.The learned Government Advocate (Crl. side) appearing for the respondent would submit that initially a complaint was registered for the offence under Sections 417, 420 and 506(i) IPC and subsequently, the de-facto complainant had given further statement alleging that the accused by threatening, had committed sexual intercourse with her and later, the case was altered into under Sections 417, 420, 506(i) and 376 of I.P.C. He would also submit that admittedly, there had been a friendship between the petitioner



and the de-facto complainant from the year 2012 and he would not be entitled for grant of anticipatory bail.

5. The learned counsel for the intervenor would submit that the petitioner and the de-facto complainant were friends from the year 2012 and taking advantage of the friendship, the petitioner has not only received several amounts from her, he had also under threat, had sexual intercourse with her and later, cheated her. Hence, he vehemently opposed for grant of anticipatory bail.

6. Heard. Perused the materials available on record including the First Information Report as well as the statement from the de-facto complainant under Section 164 of Cr.P.C.

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

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, Kumbakonam, 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, daily at 10.30 a.m., for a period of two weeks and thereafter, on every Saturday at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with 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].



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[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
22/02/2023

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/03/2023

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

SJI

TO

1. THE JUDICIAL MAGISTRATE, KUMBAKONAM.
- 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR @ KUMBAKONAM.
- 3 THE INSPECTOR OF POLICE,
KUMBAKONAM ALL WOMEN POLICE STATION,
THANJAVUR DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-2712[I] dated
22/02/2023)

ORDER
IN
CRL OP(MD) No.10697 of 2022
Date :22/02/2023

RK/BUC/SAR-2 (16/03/2023) 4P/6C