



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

Date : 07/03/2023

PRESENT

The Hon'ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.10709 of 2022

Lesley Diwakar,

... Petitioner/Accused No.1

Vs

State Rep.by
The Inspector of Police,
All Women Police Station - Town,
Tirunelveli City.
(Crime No. 6 of 2022).

... Respondent/Complainant

Anu Varshini

...Intervening Petitioner
/Proposed Respondent/Defacto Complainant
in Crl MP(MD)No.7062 OF 2022

For Petitioner : M/s.Anand R, Advocate.

For Respondent : Mr.R.M.Anbunithi,
Additional Public Prosecutor (Crl.side)

For Intervenor : Mr.R.L.Dhilipan Pandian, Advocate
in Crl MP(MD)No.7062 OF 2022

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

PRAYER :-

For Anticipatory Bail in Crime No. 6 of 2022 on the file of the respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused No.1, who apprehends arrest at the hands of the respondent police for the offences punishable under sections 417, 376 and 506(i) of I.P.C., and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act, 2002, in Crime No.6 of 2022 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner developed a relationship with the defacto complainant. The petitioner said to have forwarded inappropriate messages to her and she warned her. On 10.12.2020, the petitioner entered the house of the defacto complainant and showed the photos taken by them and compelled her to



have sex otherwise, he would show it to her husband. Thereafter the petitioner also continued to have sexual activity and also received 27 sovereigns of gold jewels and cash of Rs.1,72,000/-. Hence, the complaint.

3. Heard the learned counsel appearing on either side and perused the materials available on record, including the First Information Report.

4. It is seen that after registration of F.I.R., the defacto complainant made a statement that there was no such occurrence of rape and as such, the offence under Section 376 of I.P.C was deleted. In fact, the petitioner filed a quash petition in Crl.O.P (MD)No.10399 of 2022 before this Court to quash the F.I.R under compromise. However, it was not taken place from time to time, the defacto complainant changed her version. In fact, on 21.06.2021, the defacto complainant appeared before the learned Judicial Magistrate No.5, Tirunelveli and made a statement that she had a physical relationship with the petitioner and that he never committed any offence. She made allegations as against her husband since he suspected their relationship and as such, she lodged the complaint. Again on 19.07.2022, she filed an affidavit before this Court again reiterating the original allegation as against the petitioner. Thus, it is clear that the petitioner had a relationship with the defacto complainant. The petitioner is aged only 26 years and the defacto complainant is aged about 34 years. Admittedly, she is a married woman and they had a relationship. In fact, she filed a petition before the learned Judicial Magistrate seeking direction under Section 156(3) of Cr.P.C and the same was dismissed on the ground that she had failed to fulfil the requirement under Section 154 of Cr.P.C. Subsequently, she lodged a complaint and the same has been now registered in Crime No.6 of 2022. Therefore, the custodial interrogation of the petitioner is not required, and this court is inclined to grant anticipatory bail to the petitioner, with certain conditions:

5. 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 No.V, Tirunelveli, 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 confirm their identity.



[b] the petitioner shall report before the respondent Police, daily at 10.30 a.m., for a period of three weeks and thereafter as and when required for interrogation.

[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]**.

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

sd/-
07/03/2023

/ TRUE COPY /

/03/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

PS
TO

- 1 THE JUDICIAL MAGISTRATE V
TIRUNELVELI.
- 2 DO THROUGH:
THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION - TOWN,
TIRUNELVELI CITY
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.ANAND R Advocate SR.No.3597(I)

ORDER

IN

CRL OP(MD) No.10709 of 2022

Date :07/03/2023

PKP/MMS/SAR-3/20.03.2023/ **3P/6C**

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