



Crl.O.P.(MD)No.21311 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25.11.2025

PRESENT

THE HONOURABLE MRS. JUSTICE S.SRIMATHY

CRL OP(MD). No.21311 of 20255

Madhan

... Petitioner

Vs

The State of Tamil Nadu,
Rep. by the Inspector of Police,
AWPS Samayanallur Police Station,
Madurai District.
(Crime No.33 of 2025)

... Respondent

For Petitioner : Mr.P.Gunasekaran

For Respondent : Mr.S.S.Manoj,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.482 of BNSS

PRAYER :-

For Anticipatory Bail in Crime No.33 of 2025 on the file of the Respondent Police.



Crl.O.P.(MD)No.21311 of 2025

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 296(b), 115(2), of BNS r/w Section 5(1), 6 of POCSO Act in Crime No.33 of 2025 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the de-facto complainant is a minor and the petitioner had expressed his love to her and had assured that he would marry her at any cost. He had physical relationship with her on many occasions. When the de-facto complainant persuaded the petitioner to marry her, the petitioner evaded her and assaulted her. Hence, a case has been registered against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case and he has not committed any offence. He seeks this Court to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Criminal Side) strongly opposed



Crl.O.P.(MD)No.21311 of 2025

to grant anticipatory bail to the petitioner.

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5. This is the second anticipatory bail application. This Court has already granted interim anticipatory bail in the first anticipatory bail application and mediation was conducted by this Court itself. At one point of time, the petitioner was directed to file an undertaking affidavit that he will marry the defacto complainant. This Court also granted several opportunities for the petitioner to come up with some solution but the petitioner had not come up with any solution.

6. In the present case, the respondent had registered a case against the accused under Sections 296(b), 115(2), of BNS r/w Section 5(1), 6 of POCSO Act. The section 296(2) of BNS (294(b) of IPC) deals with whoever utter obscene words or acts in public which annoyance others. The section 115(2) of BNS (323 of IPC) deals with voluntarily causing hurt. And under section 5(1) and 6 of POCSO Act alleging penetrative assault against minor girl.

7. Even though the petitioner was minor at the time of penetrative assault, subsequently the petitioner attained majority and the assault was



Crl.O.P.(MD)No.21311 of 2025

continuing based on promise to marry. Hence, the respondent ought to have included section 69 of BNS Act also, since for the crime of sexual intercourse by deceitful means would attract the said provisions. Therefore, the respondent is directed to include the said section also.

8. The section 69 of BNS is enacted in BNS for the crime of sexual intercourse by deceitful means. Particularly false promise of marriage was considered as crime. There is no separate provisions to deal with the offence under IPC, but was dealt under Section 375 / 376 i.e. rape or cheating. But under BNS is not considered as rape but it is considered as crime under false promise to marry. The Section 69 is extracted hereunder:

“69. Whoever, by deceitful means or by making promise to marry to a woman without any intention of fulfilling the same, has sexual intercourse with her, such sexual intercourse not amounting to the offence of rape, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Explanation.—“deceitful means” shall include inducement for, or false promise of employment or promotion, or marrying by suppressing identity.”

The said provision is having the following ingredients:



Crl.O.P.(MD)No.21311 of 2025

- i. By deceitful means
- ii. or by making promise to marry to a woman
- iii. without any intention to fulfilling the same
- iv. has sexual intercourse but the same is not amounting to rape

The said provision is attracted if fraudulently by making a promise to marry without any intention of fulfilling the same has sexual intercourse with the woman.

9. The word “deceitful” is explained wherein inclusive explanation is given in the statute, wherein it includes

- i. inducement for,
- ii. or false promise of employment
- iii. or promotion
- iv. or marrying suppressing identity.

The phrase “inducement for” with comma would include promise to marry and have sexual intercourse.

10. In the present case, it is seen that the accused and the victim were in love when the victim was minor. Subsequently the same was continued with



Crl.O.P.(MD)No.21311 of 2025

promise to marry, then there was a dispute, then also the accused with a promise to marry was having sexual relationship with the victim. Now the petitioner is taking a stand that he cannot marry the victim. That too after having sexual intercourse with the victim from the time she was minor.

11. This Court has elaborately dealt with the said issue in Crl.O.P. (MD)No.13112 of 2025, wherein it is held as under:

“11.It is pertinent to record that the girls below 18 years are protected from sexual abuse under POCSO. The lady above 18 years and if married is protected by maintenance, granting residence etc. thereby until divorce the women is protected. Even after divorce the women is protected to live a decent life. Now a vulnerable section of women who are facing mental trauma by the concept of “live-in relationship” and are falling prey to the vulnerability of the concept of “live-in relationship”. Absolutely there is no protection at all.

12. Infact live-in relationship is a cultural shock to the Indian Society, but it is happening widely everywhere. The girls assume that they are modern and opt for live in relationship. But after some time when they realize that live-in relationship is not granting any protection as granted under marriage, the reality catches as fire and start burning them. And they caught in a web of modernity and cultural. Especially the said women are afraid of naming and shaming them.



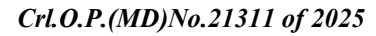
13. Infact this Court tried to mediate the parties. When the marriage could not be a solution, this Court tried to settle the issue by paying maintenance or victim compensation. This Court is bound to record the statement of one of the victim, while offering the maintenance or victim compensation, the victim refused to take the same stating that the men would brand her that she did for money or slept for money. The said statement would exhibit the gravity of the problem.

14. Hence this Court is of the considered opinion that the Courts ought to protect the women who are caught in the web modern and culture. It is pertinent to state that in ancient India eight types of marriages were in vogue. One among is Gandharva marriage which is love marriage. The live-in relationship may be recognised as Gandharva marriage / love marriage.

15. In live-in relationship the women ought to be protected by granting the status of “wife” under Gandharva marriage / love marriage, so that the women in live-in relationship, even if it is under turbulence, may be provided with rights as “wife”.

16. If marriage is not possible then the men ought to face the wrath of legal provisions. Now the only section that grants protection to women is under section 69 of BNS and the men ought to face the wrath of the section 69.

17. In the present case, there is sexual intercourse with promise to marry. The victim either is entitled to recognise as wife. Or the accused may be charged with promise to marry. But the accused now refuse to marry. Hence left with no option the accused / petitioner is liable to be



12. In the present case, as held supra the victim ought to be protected since the crime happened since she was minor. Further, the same was continued even after the victim was major. There is sexual intercourse with promise to marry. The victim either is entitled to recognise as wife. Or the accused may be charged with promise to marry. But the accused now refuse to marry. Hence left with no option the accused / petitioner is liable to be prosecuted under section 69 of BNS.

13. Taking into consideration the facts and circumstances of the case, the nature and gravity of the offence, the specific overt act against the petitioner, and also since the allegation against the petitioner is promise to marry and there are prima facie evidence available, hence interrogation is necessary, hence this Court is not inclined to grant anticipatory bail to the petitioner at this stage.

14. Accordingly, this Criminal Original Petition is dismissed.

25.11.2025

TMG



Crl.O.P.(MD)No.21311 of 2025

1.The Inspector of Police,
AWPS Samayanallur Police Station,
Madurai District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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CrI.O.P.(MD)No.21311 of 2025

S.SRIMATHY, J.

TMG

ORDER
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