



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

Date : 29/05/2020

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PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD). No.5521 of 2020

M.Mariselvam @ Mariselvan ... Petitioner/Accused No.2

Vs

The State rep.by
The Inspector of Police,
Vasudevanallur Police Station,
Tirunelveli District.

(Crime.No.140 of 2020). ... Respondent/Complainant

For Petitioner : M/s I.Pinaygash,
Advocate.

For Respondent : Mr.S.Chandrasekar,
Additional Public Prosecutor

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

PRAYER :-

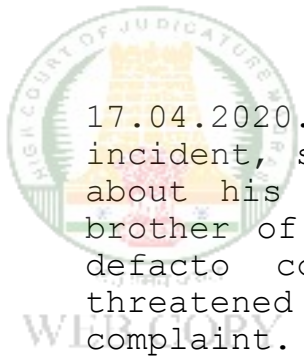
For Anticipatory Bail In Crime.No.140 of 2020 on the file of
the Respondent Police

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the
learned Additional Public Prosecutor appearing for the respondent.

2. The petitioner apprehending arrest at the hands of the
respondent police for the offences punishable under sections 294(b),
506(1) of I.P.C., and Sections 5(m), 5(n) and 6 of Protection of
Children from Sexual Offences Act, 2012 and Section 4 of Tamil Nadu
Prohibition of Harassment of Women Act, 2002 in Crime No.140 of
2020 on the file of the respondent police, seeks anticipatory bail.

3. According to the prosecution, the minor daughter of the
complainant was sexually assaulted by one Chelladurai on



17.04.2020. When the defacto complainant came to know about the incident, she went to the house of the said Chelladurai to question about his misbehavior. At that time the petitioner, who is the brother of the said Chelladurai and another person have abused the defacto complainant in filthy language and harassed her and threatened with dire consequences, if she proceed further with the complaint.

4.The learned counsel for the petitioner would submit that if at all any case made out from the complaint of the defacto complainant, it is only under Section 294(b) and 506(i) IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and offence under provision POCSO act cannot be attributed to the petitioner. Hence, he seeks anticipatory bail on the ground that he will abide by any condition.

5.The learned Additional Public Prosecutor would submit that the prime accused Chelladurai who committed the offence of sexual assault of the minor girl on 17.04.2020, has already been arrested and this petitioner, who is the brother of the prime accused, abused the defacto complainant and harassed her on 23.04.2020.

6.Considering the gravity of allegation against this petitioner, I am inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, petitioner is ordered to be released on bail in the event of arrest or on his appearance before the learned Judicial Magistrate, Sivagiri, Tirunelveli District and on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five thousand only)each with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned 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., 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.

[d] 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].

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

sd/-
29/05/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1 THE JUDICIAL MAGISTRATE,
SIVAGIRI, TIRUNELVELI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE
VASUDEVANALLUR POLICE STATION,
TIRUNELVELI DISTRICT.

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

ORDER
IN
CRL OP(MD) No.5521 of 2020
Date :29/05/2020

SDS/JC/SAR 2/01.06.2020/3P/5C