



CRL OP(MD). No.18077 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/11/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.18077 of 2023

Vansylic Israel Pintu,

... Petitioner/ Accused

Vs

The State rep. by,
The Inspector of Police,
All Women Police Station,
Pudukkottai District.
Crime No. 10 of 2023.

... Respondent/ Complainant

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

For Respondent : Ms.M.Aasha,
Government Advocate (Crl.Side)

For Intervenor : Mr.G.Mathavan, Advocate

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No. 10 of 2023 on the file of the respondent police.



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ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 10.08.2023 for the alleged offence punishable under Sections(*) 5(1), r/w 6(1) of POCSO Amendment Act, 2019 in Crime No.10 of 2023, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner was working as a Teacher in a private school and the victim was a 10th Standard student. When the petitioner was taking private class from October 2022 to November 2022, he has sexually abused the victim in his residence. The victim informed her father and thereafter, the case has been registered.

3.The learned counsel appearing for the petitioner would contend that as per prosecution, the occurrence took place between October 2022 to November 2022, however, the complaint has been given on 10.08.2023. In this case, final report has been filed in S.C.No.32/2023, however, the petitioner is in jail from 10.08.2023. He would further contend that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. Hence he seeks bail.



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4.The learned Government Advocate (criminal side) appearing for the respondent Police would submit that the petitioner apart from the victim, has sexually misbehaved with other students, however, the other students are not willing to come forward to give statement as against the accused out of fear in the society. Hence, the learned Government Advocate (criminal side) has strongly objected to grant bail to the petitioner. She would further submit that if the petitioner is released on bail, he will abscond and hence, his passport has to be surrendered.

5. A perusal of the report filed by the Investigating Officer along with the statement of the victim, it is noticed that apart from victim Parthiba, other students were subjected for sexual misbehaved. However, the affected other victims were not ready to come forward to give statement out of fear. For better appreciation, the relevant portion of the said report extracted hereunder:-

"இவ்வழக்கின் எதிரியான வென்சீலிக் இஸ்ரேல் பிண்டு என்பவர் சென்னை உயர்நீதிமன்றம் மதுரை கிளையில் பிணைக்கோரி மனு தாக்கல் செய்த பிறகு மாவட்ட குழுந்தைகள் நல குழுமத்தில் ரேஉமா, வேதலெட்கமி ஆகியோரை ஆஜர் செய்த போதும் மேற்படி சிறுமி இருவரும் தங்களிடம் நெருக்கமாகவும் தவறான எண்ணங்களிலும் எதிரி அணுகியதாக தற்போது உணர்கிறோம் என தெரிவித்தார்கள். ஆனால் எமது விசாரணையில் சிறுமி பார்த்திபா தன்னை போல ரே மா எழிலரசி ஆகியோரிடமும் தவறாக நடந்தார் என்று ரேஉமா என்ற சிறுமியை விசாரித்தபோதும் தனது தோள் தொடை இடுப்போடு கோர்த்து பிடித்து Cug செய்வார் என்றும் சொன்னார். அப்போது உனக்கு வேறு யார் மீதும் சந்தேகம் உள்ளதா என்று கேட்டபோது எழிலரசியிடம் சார் தவறாக நடந்தார் என்று சொன்னார். மேலும் எதிரியானவர் தன்னிடம் நடக்கும் அனைத்து பிள்ளைகளிடம் நம்பிக்கையை ஏற்படுத்தி தனது இச்சைக்கு சில சிறுமிகளிடம் தவறாக



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நடந்துள்ளார் என தெரிய வருகிறது, ஆனால் தற்போது எந்த சிறுமிகளும், அவர்களது பெற்றோர்களும் சமுதாயத்திற்கு பயந்து புகார் கொடுக்கவோ யாரும் முன்வரவில்லை, எனவே, இவ்வழக்கின் பாதிக்கப்பட்ட சிறுமிக்கு நியாயம் கிடைக்க வேண்டுமெனில் எதிரியை பிணையில் விட்டால் சாட்சிகளை கலைக்கவோ நீதிமன்ற விசாரணையை தவிர்க்க தலைமறைவாகவும் வாய்ப்புள்ளதால் எதிரியை பிணையில் விட எமது ஆட்சேபணையை பணிவுடன் சமர்ப்பிக்கிறேன்,"

6. From the above statement it is seen that apart from the defacto complainant, other alleged victim girls were not come forward to give any complaint against the petitioner. Further, the petitioner is in custody from 10.08.2023 and the investigation has been completed and charge sheet has also been filed. Therefore, considering the facts and circumstances and also considering the period of incarceration and and taking into consideration of the principle stated by the Honourable Supreme Court in *Sanjay Chandra and others vs. CBI* reported in (2012)1 SCC 40, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

[i] Accordingly, the petitioner is ordered to be released on bail on condition to 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 learned Mahila Court, Pudukkottai and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Judge/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;



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(iii) the petitioner shall appear before the trial Court as directed by the trial Court.

(iv) the petitioner is directed to surrender his passport, if he is having passport, otherwise, he has to file an affidavit to that effect.

(v) the petitioner shall not tamper with evidence or witness;

(vi) the petitioner shall not abscond during trial.

(vii) 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.



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7. Further, the trial Court is directed to complete the trial within a period of three months from the date of receipt of a copy of this order.

sd/-
20/11/2023

**(*)AMENDED AS PER ORDER OF THE
COURT DATED 07.12.2023 IN CRL MP
(MD)NO.17302 OF 2023 IN CRL OP
(MD)NO.18077/2023**

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11/12/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

SKN

TO
**TO BE SUBSTITUTED WITH THE ORDER DATED 20/11/2023 ALREADY
DESPATCHED.**

1. The Judge, Mahila Court, Pudukkottai.
2. The Officer Incharge, Pudukkottai District Jail & Borstal School,
Pudukkottai.
3. The Inspector of Police,
All Women Police Station,
Pudukkottai District.



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

+1CC to M/s. K. SAMIDURAI, Advocate SR-17439 dated 08/12/2023

ORDER
IN
CRL OP(MD) No.18077 of 2023
Date :20/11/2023

SSA/20.11.2023/7P/7C

RK/11.12.2023(9P/6C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023