

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 21.06.2016****CORAM:****THE HONOURABLE Dr. JUSTICE S.VIMALA****Cr1.O.P. (MD) .No.9646 of 2016**

Priyatharsini

.. Petitioner/Accused No.8

Vs.

State rep. by
The Inspector of Police,
All Women Police Station
Usilampatti
Madurai District
Crime No.19 of 2016

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the Juvenile Justice Board cum Judicial Magistrate, Madurai to consider the bail application of the petitioner in Crime No.19 of 2016 on the file of the respondent police on merits on the date of surrender itself.

For Petitioner : Mr.P.Senguttuarasan
For respondents : Mr.A.P.Balasubramani
Government Advocate (Criminal side)

ORDER

This application has been filed seeking a direction to the Court, which is dealing with the SC/ST Act cases to consider the bail application on the day of surrender itself.

2.Heard the learned counsel for the petitioner and the learned Government Advocate (Cr1. Side) for the respondents.

3.The respondent has registered a case against the petitioners under Sections 498(A), 406, 109 IPC and Section 4 of Dowry Prohibition Act in Crime No.19 of 2016.

4.As per the averments in the FIR, it is stated that the father-in-law and mother-in-law wanted the de-facto complainant in Crime No.19/2016 to give her jewels for the purpose of marriage of the petitioner, who is a juvenile in conflict with law and that she was also instrumental in causing harassment to the de-facto complainant.

<https://hcservices.ecourts.gov.in/hcservices/>

5.When a specific question was posed as to why a direction is



required in a case where bail is mandatory under Section 12 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (hereinafter referred to as "the Act"), the learned counsel for the petitioner submitted that the bail application of the juvenile is not being considered on the same day of appearance, as the Juvenile Justice Board wants the report of the Probation Officer before the grant of bail and that compels the minor to stay in Observation Home which the petitioner wants to avoid. Under such circumstances, this application for direction is taken up.

6. Section 12 of the Act, dealing with grant of bail to juvenile, is extracted hereunder for instant reference:

"12. Bail to a person who is apparently a child alleged to be in conflict with law - (1)

When any person, who is apparently a child and is alleged to have committed a bailable or non-bailable offence, is apprehended or detained by the Police or appears or brought before a Board, such person shall, notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974) or in any other law for the time being in force, be released on bail with or without surety or placed under the supervision of a Probation Officer or under the care of any fit person:

Provided that such person shall not be so released if there appears reasonable grounds for believing that the release is likely to bring that person into association with any known criminal or expose the said person to moral, physical or psychological danger or the person's release would defeat the ends of justice and the Board shall record the reasons for denying the bail and circumstances that led to such a decision.

(2) When such person having been apprehended is not released on bail under sub-section (1) by the officer-in-charge of the police station, such officer shall cause the person to be kept only in an observation home in such manner as may be prescribed until the person can be brought before a Board.

(3) When such person is not released on bail under sub-section (1) by the Board it shall make an order sending him to an observation home or a place of safety, as the case may be, for such period during the pendency of the inquiry regarding the person, as may be specified in the

(4) When a child in conflict with law is



unable to fulfil the conditions of bail order within seven days of the bail order, such child shall be produced before the Board for modification of the conditions of bail."

7. Section 12 of the Act does not contemplate obtaining of report of the Probation Officer before the grant of bail. If the Juvenile Justice Board is not granting bail, the alternative option open to the Juvenile Justice Board is to place the Juvenile under the supervision of a Probation Officer.

8. Bail can be refused under the proviso to Section 12 of the Act, only if the release is likely to bring the juvenile into the association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice. In other circumstances, so far juveniles are concerned, grant of bail is the rule and non grant of bail is only an exception.

9. Under such circumstances, the petitioner is directed to appear before the Juvenile Justice Board within ten days from the date of receipt of a copy of this order and file bail application. The Juvenile Justice Board is directed to consider and pass orders on the bail application of the petitioner on merits on the same day of her appearance.

10. This Criminal Original Petition is accordingly disposed of.
Sd/-

Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To

1. The Juvenile Justice Board cum Judicial Magistrate,
Madurai

2. The Inspector of Police,
All Women Police Station, Usilampatti, Madurai District

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

+1 cc to M/s. P. Senguttuarasan, Advocate in SR.No.31888
RR

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CSL/SKS-RR/05.07.2016 :2P/5C