



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

Thursday, the First day of February Two Thousand Eighteen  
PRESENT

**The Hon`ble Mr.Justice R.PONGIAPPAN**

CRL OP(MD) No.1540 of 2018

WEB COPY

V.NAGARAJ

... PETITIONER / ACCUSED NO.2

Vs

STATE REP.BY

THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,  
VILATHIKULAM, TUTICORIN DISTRICT.

IN CRIME NO.07/2017

... RESPONDENT / COMPLAINANT

For Petitioner : M/S.KA.RAAMAKRISHINAN, Advocate

For Respondent : M/S.K.SUYAMBULINGA BHARTHI, Govt.Advocate(Crl.Side)

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

ORDER : The Court Made the following order :-

The petitioner / A2, who was arrested on 06.01.2018 for the offence punishable under Sections 5(j), 9(ii), 5(1), 6 POCSO Act & 506(i) IPC in Crime No.07 of 2017, seeks bail.

2.The case of the prosecution is that the petitioner made physical contact forcibly with the de facto complainant on several occasions. Hence the present complaint has been registered.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner is in judicial custody from 06.01.2018 onwards.

4.The learned Government Advocate (Crl.side) submitted that medical examination of the victim is completed. According to him investigation is still pending.

5.Considering the submissions made on either side, it seems that the petitioner was remanded to judicial custody for the offences punishable under Sections 5(j), 9(ii), 5(1), 6 POCSO Act & 506(i) IPC and he is in judicial custody from 06.01.2018. It is alleged that during the time of occurrence, the petitioner and one another accused, namely Sankaranarayanan had intercourse with the victim girl without her consent. On going through the contents of the FIR, it would reveal that the de facto complainant, who is the victim in this case, made allegation only against above said Sankaranarayanan. Subsequently, she lodged another complaint, in which she impleaded this petitioner. So, lodging two complaints for the same offence, create a doubt in the case of the prosecution. However, the said fact is to be cleared only at the time of trail.



The learned Government Advocate (Crl.side) fairly conceded that medical examination of the victim is completed. With regard to this application, since the petitioner is having permanent address as well as he is in judicial custody from 06.01.2018, further custodial interrogation may not be necessary for completing the investigation.

6. Considering the above facts and circumstances of the case, this Court is inclined to grant bail to the petitioner. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions:

(i) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties, each for a like sum to the satisfaction of the learned Mahila Court, Thoothukudi.

(ii) the petitioner is directed to appear before the respondent police daily at 10.00 a.m. until further orders;

(iii) the petitioner shall not tamper with the evidence or witness either during investigation or trial;

(iv) the petitioner shall not abscond either during investigation or trial;

(v) on breach of any of the aforesaid conditions, the 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 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].

sd/-  
01/02/2018

/ TRUE COPY /

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

TO

1. THE JUDGE, MAHILA COURT, THOOTHUKUDI.
2. THE SUPERINTENDENT, CENTRAL PRISON,  
PERAURANI, TUTICORIN.
3. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,  
VILATHIKULAM, TUTICORIN DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.KA.RAAMAKRISHINAN Advocate SR.No.1708

ORDER IN  
CRL OP(MD) No.1540 of 2018  
Date : 01/02/2018