



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

Tuesday, the Ninth day of January Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.340 of 2018

DHARMARAJA

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY,
THE INSPECTOR OF POLICE
VATCHAKKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT
(CRIME NO. 391/2017)

... RESPONDENT / COMPLAINANT

For Petitioner :MR.LAKSHMI GOPINATHAN for
M/S.POLAX LEGAL SOLUTIONS Advocate

For Respondent :MR.K.SUYAMBULINGA BHARATHI Govt. Advocate(Crl. Side)

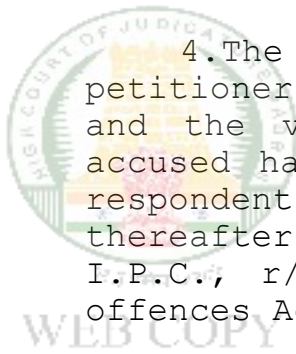
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner / sole accused, who was arrested on 14.10.2017 for the offence punishable under Sections 363, 366(A), 376 I.P.C., r/w Section 3 and 4 of Protection of Child from Sexual Offences Act, 2012, in Crime No.391 of 2017 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 20.09.2017, the petitioner and the victim, Mahalakshmi had gone to Pune, got married and thus the petitioner had forcibly intercourse with the victim girl. Hence, the respondent police, registered a case under Girl Missing and thereafter the same was altered into Sections 363, 366(A), 376 I.P.C., r/w Section 3 and 4 of Protection of Child from Sexual offences Act, 2012.

3.The learned counsel for the petitioner would submit that the petitioner is running the Fire Works and where, the alleged victim was working. The victim had a relationship with the petitioner with her own consent and she only volunteered to marry the petitioner and under her instigation only, they got married. Hence no such allegation could be made against the petitioner. Moreover, the marriage, took place on 20.09.2017 and they were living at Pune for nearly a month and then only this fabricated complaint has been made. He further submitted that the petitioner is in judicial custody for the past 87 days. Hence he prays for bail.



4.The learned Government Advocate (Crl.side) submitted that the petitioner/sole accused already got married and his age is 44 years and the victim girl is only 15 years old. The petitioner/sole accused had forcibly intercourse with the victim girl. Hence, the respondent police, registered a case under Girl Missing and thereafter the same was altered into Sections 363, 366(A), 376 I.P.C., r/w Section 3 and 4 of Protection of Child from Sexual offences Act, 2012 and investigation is pending.

5.Considering the submissions made on either side, it seems that the petitioner was remanded to judicial custody for the offences punishable under Section 363, 366(A), 376 I.P.C., r/w Section 3 and 4 of Protection of Child from Sexual Offences Act, 2012, in Crime No.391 of 2017 and he is in judicial custody from 14.10.2017. According to the prosecution of the case, the medical examination of the petitioner and the victim girl was completed. The petitioner was arrested and remanded to judicial custody on 14.10.2017. Considering the period of incarceration of the petitioner, further custodial interrogation is not necessary for completing the investigation. So, considering the period of incarceration of the petitioner, the contention made by the learned Additional Public Prosecutor need not be considered.

6.Considering the above facts and circumstances, 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 Family Judge (Fast Track Mahila Court) Srivilliputhur.

(ii)the petitioner is directed to appear before the respondent police daily twice i.e. morning at 10.30 a.m. and evening at 5.30 p.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/-
09/01/2018

/ TRUE COPY /



TO

1 THE FAMILY JUDGE, (FAST TRACK MAHILA COURT),
SRIVILLIPUTHUR.

2 THE OFFICER IN CHARGE,
SUB JAIL, VIRUDHUNAGAR.

3 THE INSPECTOR OF POLICE,
VATCHAKKARAPATTI POLICE STATION,
VIRUDHUNAGAR DISTRICT.

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

+1. CC to M/S.POLAX LEGAL SOLUTIONS Advocate SR.No.366

ORDER

IN

CRL OP(MD) No.340 of 2018

Date :09/01/2018

MKV-PN-SAR 2/9.1.2018/3P-6C