



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

Wednesday, the Seventeenth day of January Two Thousand Eighteen

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PRESENT

The Hon`ble Mr.Justice R.PONGIAPPAN

CRL OP(MD) No.682 of 2018

MUTHUKUMAR

... PETITIONER /SOLE ACCUSED

Vs

STATE REP.BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
(CRIME NO.11 OF 2017)

... RESPONDENT / COMPLAINAN

For Petitioner : M/S.A.KANNIAPPAN, Advocate

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

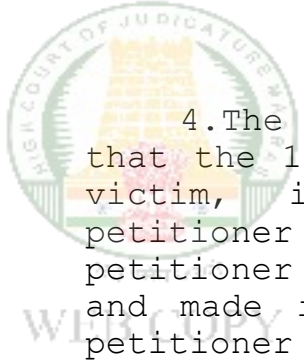
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner / Sole Accused, who was arrested on 29.10.2017 for the offences punishable under Sections 366, 417 I.P.C., 7,8,3,4 and 5(j)(ii) of Protection of Children from Sexual Offences Act, 2012 and 9 and 10 of Prohibition of Child Marriage Act, 2006 in Crime No.11 of 2017, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner and the defacto complainant's daughter loved each other. The petitioner giving promise to marry the de-facto complainant's daughter, sexual intercourse with her. Thereafter, the petitioner eloped with the defacto complainant's daughter and married in Tiruchendur Temple. Since, they are different communities, the defacto complainant resisting to marry his daughter to the petitioner, thereby, the defacto complainant gave a complaint before the respondent police and the petitioner was arrested and remanded to judicial custody.

3.The learned counsel for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence. He further submitted that even 164 statement was recorded by learned Magistrate from the victim, in which, it was not averred that the accused assaulted her with penetrative assault. Accordingly, he prays for bail.



4.The learned Government Advocate (Criminal side) submitted that the 164 statement was recorded by learned Magistrate from the victim, it reveal that the victim voluntarily run away with the petitioner from the defacto complainant's house. Thereafter, only petitioner herein married with the defacto complainant's daughter and made intercourse with her. He further submitted that the petitioner was remanded to Judicial custody on 29.10.2017 for the offence under Sections 366, 417 I.P.C 7,8 of POSCO Act 9, 10 of Child Marriage Act, 2006 @ into the offence under Sections 366, 417 I.P.C., 7,8,3,4 and 5(j)(ii) of Protection of Children from Sexual Offences Act, 2012 and 9 and 10 of Prohibition of Child Marriage Act, 2006.

5.Considering the submissions made on either side, it seems that the petitioner is in judicial custody from 29.10.2017 to till date. On perusal of 161(3) Cr.P.C statement and the statement given before the learned Judicial Magistrate under Section 164 Cr.P.C, it reveal that the victim run away with the petitioners voluntarily from the defacto complainant's house. Thereafter, only after getting consent from the victim, petitioner herein made intercourse with the defacto complainant. As a result of which, the defacto complainant's daughter is now the stage of pregnant. So, considering the period of detention and per the case of victim, custodial interrogation is not necessary for completing the investigation.

6.Accordingly, considering the 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 Fast Track Mahila Court, Virudhunagar District at Srivilliputhur.

(ii)the petitioner is directed to appear before the respondent police daily at 10.30 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].

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17/01/2018

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

TO

1. THE JUDGE,
FAST TRACK MAHILA COURT,
VIRDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
 2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, SATTUR,
VIRUDHUNAGAR DISTRICT.
 3. THE OFFICER INCHARGE, DISTRICT PRISON,
VIRDHUNAGAR.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.A.KANNIAPPAN Advocate SR.No.801

ORDER
IN
CRL OP(MD) No.682 of 2018
Date :17/01/2018

MS/PM/SAR.3/17.01.2018/3P.6C