



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

Tuesday, the Eleventh day of December Two Thousand Eighteen

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.20414 of 2018

VIDHYA

... PETITIONER / ACCUSED NO.4

Vs

THE STATE REP. THROUGH
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVAIYARU,
THANJAVUR DISTRICT
CRIME NO.14/2018

... RESPONDENT / COMPLAINANT

For Petitioner : MR.T.INDRACHITHU Advocate

For Respondent : MR.S.CHANDRASEKAR, Additional Public Prosecutor

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

ORDER : The Court Made the following order :-

The petitioner was arrested and remanded to judicial custody since 23.10.2018 for the offence punishable under Sections 294(b), 323, 324, 342, 506(ii), 355 I.P.C r/w Section 5(1), 6, 8 of Protection of Children from Sexual Offences Act 2012, in Crime No.14 of 2018, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there are totally five accused in this case. The petitioner herein is arrayed as A4 in this case. On 15.10.2018, A1 had sexually assaulted the defacto complainant and on 18.10.2018, on suspicion of stealing of money committed by the defacto complainant, the 2nd and 3rd accused had tied the defacto complainant in a tree and attacked her, besides causing burn injuries on her right hand and left cheek with hot iron rod. The allegation against the petitioner herein is that she slapped the defacto complainant with footwear.

3.The learned Additional Public Prosecutor for the respondent submitted that the defacto complainant taking treatment from 20.10.2018 and Section 164 Cr.P.C., statement is yet to be recorded.



4. The specific allegation is that the defacto complainant is a minor and A5 had committed rape. As per the provision, time frame is fixed for recording statement under Section 164 Cr.P.C., particularly to a minor, as contemplated under Section 164(A) Cr.P.C., medical examination is to be evaluated. These procedures are not followed by the respondent police, who are investigating the case. At this juncture, it is relevant to refer Section 35 of Protection of Children from Sexual Offences Act, which reads as follows:

35.Period for recording of evidence of child and disposal of case:

The evidence of the child shall be recorded within a period of thirty day of the Special Court taking cognizance of the offence and reasons for delay, if any, shall be recorded by the Special Court.

(2) The Special Court shall complete the trial, as far as possible, within a period of one year from the date of taking cognizance of the offence.

5. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner, with certain conditions;

6. Accordingly, the petitioner is ordered to be released on bail on her executing 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 Judge, Thanjavur, Thanjavur District and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30.a.m.

[b] the petitioner shall not abscond either during investigation or trial.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] 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]**.

[e] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

11/12/2018

/ TRUE COPY /



TO

1. THE MAHILA JUDGE,
THANJAVUR , THANJAVUR DISTRICT

2. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
THIRUVAIYARU,
THANJAVUR DISTRICT

3. THE OFFICER IN-CHARGE,
WOMEN PRISON, TRICHY

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

+1. CC to MR.T.INDRACHITHU Advocate SR.No.23008

ORDER
IN
CRL OP(MD) No.20414 of 2018
Date :11/12/2018

DAS
MK/PN-AC/SAR 1/12.12.2018/3P/6C