



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

Thursday, the Seventh day of February Two Thousand Nineteen  
PRESENT

**The Hon`ble Mr.Justice M.DHANDAPANI**

CRL OP (MD) No.1099 of 2019

1 NATCHIMUTHU  
2 MARUTHAMUTHU

... PETITIONERS / ACCUSED  
1 and 2

Vs

THE STATE REP.BY  
THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
KARUR DISTRICT.  
Crime No.9/2018

... RESPONDENT / COMPLAINANT

For Petitioners : Mr.S.GOKUL RAJ 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 petitioners, who were arrested and remanded to judicial custody since 31.12.2018 for the offence punishable under Section 376(A) and 376(D) of IPC in Crime No.9 of 2018, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 07.11.2018, the accused persons forcibly gave the liquor to the victim girl and in the intoxicant mood raped her in the abundant place. Immediately after came to know about the incident, the defacto complainant who is the mother of the victim girl and her family members informed the same to the village elders and take necessary action against them and since there is no response the defacto complainant lodged the present complaint on 30.12.2018.

3.The learned counsel for the petitioners would submit that the petitioners are innocent persons and they have not committed any offence as alleged by the prosecution. He also submits that the application of Section 376 (A) is not applicable in the present case and it is only applicable where the victim is a vegetative. However, the victim girl married one Muthuraj on love affairs and they blessed with two child and they are working in the agricultural field of Kandasamy as agriculture coolie. Moreover, the incident was said to be happened on 07.11.2018 and the complaint was lodged on 30.12.2018 after a lapse of 53 days and the FIR has been came to be registered. Accordingly, he prayed for bail.



4. The learned Additional Public Prosecutor did not dispute the fact that the victim girl was married one Muthuraj and they stayed in the agricultural field belonged to one Kandasamy Gounder and he also fairly admitted the date of occurrence is 07.11.2018, but the defacto complainant filed the complaint only on 30.12.2018 and the petitioners were also arrested on 30.12.2018. He further submitted that the investigation almost completed and the charge sheet is under preparation.

5. Considering the facts and circumstances of the case and also considering the period of incarceration of the petitioners, this Court is inclined to grant bail to the petitioners.

6. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Karur and on further condition that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the concerned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioners shall report before the respondent police daily daily at 10.30 a.m. until further orders;

(c) the petitioners shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioners shall not abscond either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Magistrate/ Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC;

sd/-

07/02/2019

/ TRUE COPY /



TO

1. THE JUDICIAL MAGISTRATE NO II,  
KARUR.

2. THE CHIEF JUDICIAL MAGISTRATE,  
KARUR DISTRICT.

3. THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION, KARUR DISTRICT.

4. THE SUPERINTENDENT,  
CENTRAL PRISON, TRICHY.

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

+1. CC to Mr.S.GOKUL RAJ Advocate SR.No.2607

ORDER

IN

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Date : 07/02/2019

TK/PN/SAR-2/08.02.2019/3P/7C