



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT, MADURAI

(Criminal Jurisdiction)

Date : 07/06/2019

WEB COPY

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD) . No.7444 of 2019

N. Gurumoorthy,

... Petitioner/5th Accused

Vs

The State Rep.by,
The Inspector of Police,
Kumbakonam West Police Station,
Thanjavur District.
Cr.No.295 of 2018.

... Respondent/Complainant

For Petitioner : M/s.G.Chitra Devi,
Advocate.

For Respondent : V.Neelakandan,
Additional Public Prosecutor,

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

ORDER : The Court Made the following order :-

This petition has been filed by the fifth accused, seeking bail for the alleged offences punishable under Sections 365, 366, 354(b), 387, 376-D and 393 I.P.C.

2.The respondent has opposed this petition by filing a counter affidavit.

3.The learned counsel for the petitioner has submitted that the petitioner is innocent and he has been falsely implicated in the above case. He further submitted that even as per the F.I.R, the petitioner herein took the victim woman in an auto rickshaw at Kumbakonam Railway Station to reach 'hotel Venkataramana' and after boarding into the auto rickshaw, the petitioner being the driver of the said auto rickshaw, instead of taking her directly to the said hotel, drove the auto rickshaw to the outskirts of Kumbakonam city and sensing that the petitioner is taking her to some other place, she shouted on him and managed to jump out of the auto rickshaw by

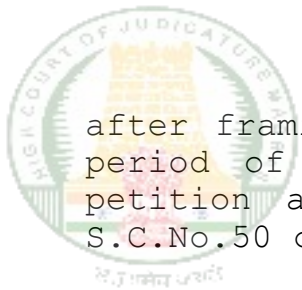


taking her bag and thereafter, the petitioner took the auto rickshaw and went away.

4.The learned counsel for the petitioner further submitted that as per the prosecution case, after the petitioner went away from the said place with his auto rickshaw, the other accused persons have taken the victim woman to some remote place and committed gang rape. He further submitted that the petitioner is in no way connected with the above said gang rape said to have been committed by the other accused persons. He further submitted that in the F.I.R, not even the registration number of the auto rickshaw has been mentioned and there is no evidence that the petitioner has taken the woman in the auto rickshaw. He further submitted that the petitioner was arrested and remanded to judicial custody on 11.12.2018 and from that date onwards, he is in custody. He further submitted that already, charge-sheet has been filed, the case was also committed to the Court of Sessions and taken on file in S.C.No.50 of 2015 and now, the same is pending before the Mahalir Neethimandram (Fast Track Mahila Court), Thanjavur. He further submitted that the petitioner is the only breadwinner in his family and he has been detained for nearly 6 months without any valid reason and therefore, he prayed to grant bail to the petitioner.

5.Per contra, the learned Additional Public Prosecutor has submitted that there are totally 5 accused involved in the above case and all are under the judicial custody and they have committed a heinous crime upon a woman, who belongs to New Delhi. He further submitted that the victim woman is working as a Senior Associate in City Union Bank Limited, New Delhi and for training at Kumbakonam Staff College from 3rd December to 7th December 2018, she came by flight upto Chennai and reached Kumbakonam by Thiruchendur Express on 02.12.2018 at about 9.40 p.m. She took an auto rickshaw to reach Hotel Venkataramana. After boarding the auto, the driver (petitioner) drove the auto to the outskirts of the town and she suspected and shouted on him and then, she managed to jump out of the said auto along with her bag and when she walked along the road in search of some other vehicle, the other accused persons, who came in a bike, told her that they will help her and believing their words, she went along with them, but, they have taken her to a remote place and committed gang rape.

6.The learned Additional Public Prosecutor further submitted that had the petitioner properly dropped her at hotel Venkataramana, the entire occurrence would not have taken place and he is the root cause for all the evils. He further submitted that if the petitioner is released on bail, he may not appear for trial and citing the said reason, the other accused also may seek bail. He further submitted that investigation has been completed and charge-sheet was also filed and the case was committed and now, it is pending before the Mahila Court, Thanjavur in S.C.No.50 of 2019. He further submitted that the case is posted for framing charges and



after framing charges, the trial itself will be completed within a period of two months and therefore, he requests to dismiss the petition and direct the trial court to dispose of the case in S.C.No.50 of 2019 at early.

7.Taking into consideration the allegations made against the petitioner that in the night hours, when the victim woman came out lonely from the Railway Station and requested the petitioner, who is the auto driver to drop at hotel Venkataramana, the petitioner, in stead of taking her directly to the said hotel, drove the auto in the outskirts of the town and the victim suspected the conduct of the petitioner and shouted on him and even thereafter, he did not stop the auto, but, the victim managed to

jump out of the auto and when she was going lonely in search of some other vehicle, the other accused persons have taken her to a remote place and committed gang rape and also the allegation that if the petitioner had properly dropped the victim woman in the concerned hotel, the aforesaid heinous crime would not have been taken place and also the fact that already, charge-sheet has been filed and case was also taken on file in S.C.No.50 of 2019 and the same is pending before the Mahila Court, Thanjavur for framing charges and also the fact that if the petitioner is released on bail, he may not appear for trial, this Court is not inclined to grant bail to the petitioner.

8.In the result, this petition is dismissed. Since the case is pending at the stage of framing charges and the accused are in custody, the trial Court i.e the learned Judge, Mahila Court, Thanjavur, is directed to dispose of the case in S.C.No.50 of 2019 in accordance with law within a period of 3 months from the date of receipt of a copy of this order.

sd/-
07/06/2019

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

TO

1.THE JUDGE, MAHILA COURT,
THANJAVUR

2.THE INSPECTOR OF POLICE
KUMBAKONAM WEST POLICE STATION,
THANJAVUR DISTRICT.



3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY

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

ORDER

IN

CRL OP (MD) No.7444 of 2019

Date : 07/06/2019

VS

PK/JC/SAR-2/11.06.2019 : 4P/5C