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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/07/2019

PRESENT

The Hon`ble Mr.Justice P.RAJAMANICKAM

CRL OP(MD). No.9401 of 2019

K.Manoharan

... Petitioner/Accused

Vs

State through
The Inspector of Police,
All Women Police Station, Theni, Theni
District (Cr.No.8/2019).

... Respondent/
Defacto Complainant

For Petitioner : M/s.A.B.Prabhakar,
Advocate.

For Respondent : Mr.V.Neelakandan,
Additional Public Prosecutor

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

PRAYER :-

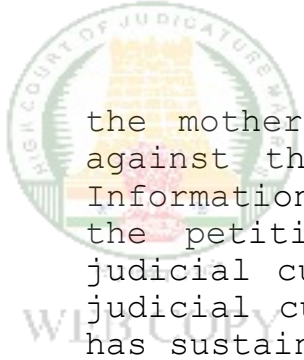
For bail in Cr.No.8/2019 on the file of the respondent police.

ORDER : The Court Made the following order :-

This petition has been filed by the petitioner/ accused seeking bail for the alleged offence under Section 4 of the Protection of Child from Sexual Offences Act, 2012

2. Heard both sides

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He further submitted that the parents of the defacto complainant compelled the parents of the petitioner to marry the minor girl for the past six months and mediation was also made by the elders and they advised the parents of the minor girl to wait till she attains majority, but suddenly on 14.05.2019



the mother of the said victim girl has lodged a false complaint against the petitioner and based on the same the present First Information Report was registered in crime number 08 of 2019 and the petitioner was arrested on 12.05.2019 and was remanded to judicial custody on 19.05.2019 and from that date onwards he is in judicial custody. He further submitted that already the petitioner has sustained fracture on his left leg and for that he had undergone surgery on 01.04.2019 and he was discharged from the hospital on 13.04.2019 and as such he could not have forcible sexual intercourse with the victim girl. He further submitted that the petitioner is having permanent residence and if he is released on bail, he will never abscond. Hence he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the victim girl is aged about 16 years and she is studying +1 in Higher Secondary School at Bodi. He further submitted that on 17.05.2019 at about 10.00a.m the victim girl went to the shop and thereafter she did not turn up and only on 18.05.2019 at about 10.00a.m she came to her parents house and she was questioned by her mother, she stated that the petitioner and the victim loved each other for two years and the petitioner gave promise that he will marry her and based on the said promise he had sexual intercourse with her on three occasions. He further submitted that the victim herself has given statement under Section 164 Cr.P.C before the learned Magistrate stating that the petitioner had sexual intercourse with her and that the medical report also shows that the victim girl had sexual intercourse. He further submitted that the investigation has been completed and charge sheet has been filed before the Mahila Court, Theni on 28.06.2019 and the same was returned for some defects and it will be represented shortly. He would further submit that if the petitioner is released on bail, he will abscond. Hence he opposed to grant bail to the petitioner.

5. In this case, the victim girl is aged about 16 years. She gave a statement under Section 164 Cr.P.C before the Judicial Magistrate stating that the petitioner had sexual intercourse with her. Medical report also shows that she was subjected to penetrative sexual assault. The alleged act of the petitioner would amount to offence under Section 3 of POCSO Act. As per Section 29 of the POSCO Act, unless the contrary is proved it shall be presumed that the accused has committed the said offence. The petitioner has not rebutted the said presumption by pointing out any defect in the prosecution case. Therefore this Court is of the view that the petitioner has not made out a case for granting bail.

6. Hence the bail petition is dismissed. However considering the submission made by the learned Additional Public Prosecutor that investigation has been completed and charge sheet has been filed before the Mahila Court, Theni on 28.06.2019 and the same was returned for some defects and it will be represented shortly, the respondent police is directed to represent the charge sheet immediately and thereafter the trial Court has to dispose of the



case in accordance with law as expeditiously as possible preferably within a period of four months therefrom.

sd/-
17/07/2019

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

TO

- 1 FAST TRACK MAHILA COURT, THENI
- 2 DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE, THENI DISTRICT.
- 3 THE OFFICER IN CHARGE, DISTRICT PRISON, THENI.
- 4 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, THENI,
THENI DISTRICT (CR.NO.8/2019)
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.A.B.PRABHAKAR Advocate SR.No.11856

ORDER
IN
CRL OP(MD) No.9401 of 2019
Date :17/07/2019

AAV
JM-I/VR/SAR-2/23.07.2019/3P-7C