



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

Monday, the Fourth day of February Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP (MD) No.22656 of 2018

ESAKKIMUTHU

... PETITIONER / SOLE ACCUSED

Vs

STATED REPRESENTED BY
THE INSPECTOR OF POLICE,
TENKASI POLICE STATION,
TIRUNELVELI DISTRICT.
Crime No.619/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.A.ARUL JENIFER Advocate

For Respondent : Mr.A.ROBINSON Govt. Advocate (Crl. Side)

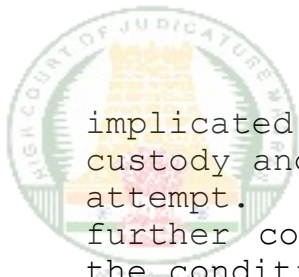
PETITION FOR BAIL Under Sec. 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner was arrested and remanded to judicial custody since 03.12.2018 for the offences punishable under Sections 342,294 (b), 376, 511 and 506(ii) IPC in Crime No.619 of 2018, on the file of the respondent police. He seeks bail.

2.The case of the prosecution is that on 02.12.2018, at about 04.30 p.m., the defacto complainant was working at her agricultural field. While so, since the defacto complainant has found the accused person as stranger to the agricultural field, she voluntarily enquired the accused person about his whereabouts and thereafter, he informed that his grandmother is in the forest for collecting firewoods. Immediately, thereafter, the accused person tried to rape the defacto complainant. When the defacto complainant has started to shout, the accused person ran away from the scene of occurrence in his motorcycle. Thereafter, she informed the police and the police has arrested and remanded the accused in judicial custody.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and he has been falsely



implicated in this case and for the past 62 days he is in judicial custody and the present allegation against the petitioner is only an attempt. Accordingly, he prayed for bail. The learned counsel further contended that the petitioner is ready to abide by any of the conditions that is to be imposed by this Court.

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4. The learned Government Advocate (Crl.Side) would submit that there is no previous case pending against the petitioner and investigation is completed. Hence, in the event of the petitioner being enlarged on bail, stringent conditions may be imposed on him.

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.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) 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, Tenkasi 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 petitioner shall report before the learned Judicial Magistrate, Tenkasi daily at 10.30 a.m. until further orders;

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

(d) the petitioner 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 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]; and;

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

sd/-

04/02/2019

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TO

1. THE JUDICIAL MAGISTRATE,
TENKASI.

2. THE CHIEF JUDICIAL MAGISTRATE,
TIRUNELVELI DISTRICT.

3. THE INSPECTOR OF POLICE,
TENKASI POLICE STATION,
TIRUNELVELI DISTRICT.

4. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

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

+1. CC to Mr. PSMS. ABUTHAHEER Advocate SR.No.2239

ORDER

IN

CRL OP (MD) No.22656 of 2018

Date : 04/02/2019

TK/PN/SAR-4/04.02.2019/3P/7C