



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

Monday, the Twenty Eighth day of January Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) No.21305 of 2018

POTTAYAN @ VEERAAIAH

... PETITIONER / SOLE ACCUSED

Vs

THE STATE REP.BY
THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, ALANGUDI,
PUDUKKOTTAI DISTRICT.
Crime No.5/2018

... RESPONDENT / COMPLAINANT

For Petitioner : Mr.M.RAMU Advocate

For Respondent : Mr.K.SUYAMBULINGA BHARATHI
Govt. Advocate (Crl. Side)

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

ORDER : The Court Made the following order :-

The petitioner is in judicial custody since 06.07.2018 for the offences punishable under Sections 5(j)(ii) r/w.6 of POSCO Act Crime No. 5 of 2018 on the file of the respondent police and seeks bail.

2. The case of the prosecution is that on 06.07.2018 the victim's mother had given a complaint stating that when she took her daughter to hospital, she came to know that the victim is pregnant . On enquiry the victim girl has stated that on various occasions by giving money and also threatening, the petitioner herein raped her.

3.The learned counsel for the petitioner would submit that both the petitioner and the victim family are family neighbours and they had frequent quarrel ,due to which a false case has been foisted against him. He would further submit that the wife of the petitioner had given a representation to the Superintendent of Police on 25.09.2019. On 06.07.2018 her husband was falsely implicated in this case as though the petitioner is responsible for the victim's pregnancy. He would also submit that the petitioner is not responsible for any act committed on the victim and he is ready for DNA profiling. During the pendency of the bail petition, the petitioner filed a petition for DNA profiling, which was dismissed



thereafter, this Court had directed the respondent police to file petition before the lower court seeking permission for DNA test for the petitioner/ victim and the female child, but the learned Judge by an cryptic order had dismissed the same on 22.01.2019 stating that already the petition in CrI.M.P No.779 of 2018 was dismissed.

4. The learned Government Advocate(CrI.Side) would submit that investigation in this case is also over and ripe for trial.

5.Considering the above facts and circumstances and also the period of incarceration, 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, each for a like sum to the satisfaction of the Mahila Court, Pudukottai and on further condition that:

[a] the petitioner shall appear before the trial court on all hearing dates without fail.

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

[c] the petitioner shall not abscond 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 229 A IPC.

7. The trial court is directed to send the victim/ petitioner and the female child for DNA test, since it will be of great benefit to find out the truth in this case. Further, the Dean, Pudukottai Medical College Hospital is directed to conduct DNA test and submit the report before the court as early as possible, since the trial impending.

sd/-
28/01/2019

/ TRUE COPY /

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



TO

1. THE JUDGE, MAHILA COURT,
PUDUKOTTAI

2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, ALANGUDI,
PUDUKKOTTAI DISTRICT.

3. THE OFFICER INCHARGE,
SUB JAIL, PUDUKKOTTAI

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

COPY TO

THE DEAN, PUDUKOTTAI MEDICAL COLLEGE HOSPITAL.

+1. CC to Mr.M.RAMU Advocate SR.No.1503

ORDER

IN

CRL OP(MD) No.21305 of 2018

Date :28/01/2019

TK/VR/SAR-4/28.01.2019/3P/7C