



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 06/08/2019

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PRESENT

**The Hon`ble Mr.Justice P.RAJAMANICKAM**

CRL OP(MD) . No.10989 of 2019

A.Nagoor Kani

... Petitioner/Accused

Vs

State Rep.by  
The Inspector of Police,  
Thallakulam All Women Police Station,  
Madurai District.  
(Crime No.24 of 2019).

... Respondent/Complainant

For Petitioner : M/s.S.M.A.Jinnah,  
Advocate.

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

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

**PRAYER :-**

for bail in Crime No.24 of 2019 on the file of the Respondent Police.

ORDER : The Court Made the following order :-

The petition has been filed by Accused No.1 seeking bail for the alleged offence punishable under Sections 294 (b), 506 (ii) IPC & 11 (i) r/w 12 of POCSO Act, 2012, in Crime No.24 of 2019.

2. Heard both sides.

3.The learned counsel appearing for the petitioner has submitted that there was a property dispute between the petitioner/A1 and his sister namely, Ismail Beevi, who is the mother of the defacto complainant. He further submitted that the petitioner, who is arrayed as A1 and his wife are residing in the first floor and the defacto complainant and her mother are residing in the ground floor of the same building. He further submitted that on 12.10.2018, with regard to enjoyment of their portions, quarrel arose and the defacto complainant's mother has lodged a complaint



against the petitioner and his wife. Based on the same, FIR was registered in Crime No.24 of 2019 and in the said complaint, the defacto complainant has not stated anything about the alleged sexual abuse by the petitioner herein. He further submitted that the defacto complainant and her mother damaged the building and hence, on 12.06.2019, the petitioner lodged a complaint against them and enraged by the same, the defacto complainant's mother gave a false complaint against the petitioners through her daughter as if the petitioner and his wife are giving sexual harassment, and the petitioner is in custody from 03.07.2019, and therefore, he prayed to grant bail to the petitioner.

4.Per contra, the learned Additional Public Prosecutor appearing for the respondent has submitted that the petitioner gave sex torture to the victim girl with the help of A2, and hence, he strongly opposed this petition.

5.Taking into consideration of the fact that in the complaint, which was lodged by the defacto complainant's mother on 12.10.2018 nothing has been stated about the alleged sexual abuse and also the fact that both the parties are close relatives and they are residing in the same building and already property dispute is there and also the fact that the victim girl was not sent for any medical examination and also the fact that this Court has already granted anticipatory bail to A2 and also the fact that the petitioner is in custody for the past 35 days, this Court is inclined to grant bail to the petitioner by imposing conditions.

[a]the petitioner is ordered to be released on bail on their 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 learned Sessions Mahila Court, Madurai District.

[b]the petitioner shall report before the respondent police daily at 10.00.a.m for a period of one month and thereafter, as and when required for the interrogation.

[c]the petitioner shall not abscond either during investigation or trial.

[d]the petitioner shall not tamper with evidence or witness 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].



[f]If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-  
06/08/2019

/ TRUE COPY /

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

TO

1. THE JUDGE,  
THE SESSIONS MAHILA COURT, MADURAI DISTRICT.
2. THE SUPERINTENDENT, CENTRAL PRISON,  
MADURAI.
3. THE INSPECTOR OF POLICE,  
THALLAKULAM ALL WOMEN POLICE STATION,  
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.S.M.A.JINNAH Advocate SR.No.12938

ORDER

IN

CRL OP(MD) No.10989 of 2019

Date : 06/08/2019

**MS/VR/SAR-1/06.08.2019/3P.6C**