



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

Date : 22/08/2019

PRESENT

The Hon'ble Mr. Justice P. RAJAMANICKAM

CRL OP (MD) . No.11720 of 2019

Ramani @ Ramanidharan

... Petitioner/Accused

Vs

The State rep.by
The Inspector of Police,
Aranthangi Police Station,
Pudukkottai District
(Crime No.356 of 2018).

... Respondent/Complainant

For Petitioner : M/s.M.Ramu,
Advocate.

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

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

PRAYER :-

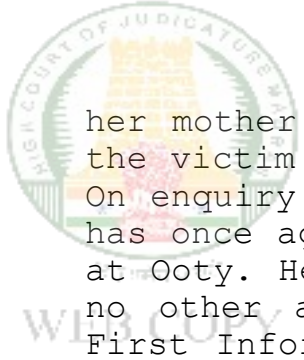
for bail in Crime No.356 of 2018 on the file of the respondent Police.

ORDER : The Court Made the following order :-

This petition has been filed by the petitioner/ accused seeking bail for the alleged offence under Section 363 of IPC and Section 9 of Prohibition of Child Marriage Act, 2006, U/s.5(n) r/w.6 and 5(1) r/w.6 of Protection of Children from Sexual Offences Act, 2012

2. Heard both sides

3. The learned counsel for the petitioner would submit that the petitioner is the brother of the victim girl's father and in the said relationship he would not have committed the sexual offence against the victim girl. He further submitted that the First Information Report was registered only under section 363 of IPC based on the complaint given by the mother of the defacto complainant. He further submitted that in the First Information Report no where it is stated that the petitioner has committed any sexual offence with the victim girl, on the contrary she has stated that on a previous occasion, the petitioner has taken the victim girl to his house and subsequently he restored the victim girl to



her mother (Defacto complainant) and subsequently on 03.09.2018 when the victim girl went to the school she did not return to the house. On enquiry the defacto complainant came to know that the petitioner has once again taken the victim girl to his house which is situated at Ooty. He further submitted that except the aforesaid allegations no other allegation has been made against the petitioner in the First Information Report. He further submitted that as per section 24 of the POCSO Act, the statement of the child shall be recorded at the residence of the child or at the place where the child was residing or at the place of his choice and as far as practicable by a woman police officer not below the rank of Sub Inspector. But the statement under Section 161(3) Cr.P.C of the victim girl would show that the victim girl was examined in the police station and that it would show that the provisions of Section 24 of the POCSO Act are violated. He further submitted that the petitioner is custody for nearly one year and investigation has been completed and a charge sheet has been filed. Therefore he prayed to grant bail to the petitioner.

4. Per contra, the learned Additional Public Prosecutor would submit that after registering the First Information Report, the victim girl (aged about 15 years) was secured and produced before the learned Judicial Magistrate and the victim girl gave a statement under Section 164 Cr.P.C stating that the petitioner herein who is a paternal uncle of the victim girl has enticed her by saying sweet words and tied thali and had sexual relationship with her on several days. He further submitted that investigation has been completed and charge sheet has also been filed. He further submitted that if the petitioner is released on bail, he may tamper the witness and further he would not appear before the trial court. Hence he strongly opposed to grant bail to the petitioner.

5. Though in the First Information Report, it is not specifically stated that the petitioner has kidnapped the victim girl for the purpose of getting marriage, after registering the First Information Report, during investigation the victim girl has been secured and she was produced before the learned Judicial Magistrate and she gave a statement under Section 164 Cr.P.C as the petitioner enticed her by saying sweet words and tied thali and had sexual intercourse with her on several days. So it appears that there is a *prima facie* case against the petitioner herein. The petitioner is the paternal uncle. He has to take care of minor child, but the allegation made against him is shocking the conscience of this Court.

6. The Section 24 of the POCSO Act is meant to protect the interest of the child. If the police has not followed the procedure laid down in the said section, it is for the child or his parents to make the complaint. It is not open to the accused to make a complaint as the said provision has not been complied with.

7. Taking into consideration of all the aforesaid facts and



also the fact that already investigation has been completed and charge sheet has been filed and the case has been taken on file in Spl.S.C.No.32 of 2018 and also charges have been framed, this Court is not inclined to grant bail to the petitioner.

8. In the result, the petition is dismissed as devoid of merits. However taking into consideration the period of custody of the accused, the trial court is directed to expedite the trial and dispose of the case as early as possible.

sd/-
22/08/2019

/ TRUE COPY /

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

TO

- 1 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
- 2 THE INSPECTOR OF POLICE
ARANTHANGI POLICE STATION,
PUDUKKOTTAI DISTRICT
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.RAMU, Advocate (SR-13920[I] dated 22/08/2019)

ORDER
IN
CRL OP(MD) No.11720 of 2019
Date :22/08/2019

AAV
ES/PN/SAR 1/04.09.2019/3P/5C