



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

Date : 11/02/2020

PRESENT

The Hon`ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD). No.624 of 2020

Rajavel Subramanian

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Thoothukudi, Thoothukudi District.
Crime No.19/2018

... Respondent/Complainant

For Petitioner : M/s.S.Palani Velayutham, Advocate.

For Respondent : Mr.K.K.RAMAKRISHNAN,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Spl.S.C.No. 81/2019 on the file of the Special Court for POCSO Offences, Thoothukudi, Thoothukudi District.

ORDER : The Court made the following order :-

Heard the learned counsel appearing for the petitioner and the learned Government Advocate(Crl. Side) appearing for the respondent.

2. The petitioner is in custody since 16.12.2019 for the offences under Sections 506(i) and 354(A)(1) and Section 3 of I.P.C. r/w. Sections 120(b), 34 and 294(b) of I.P.C. r/w. Section 4 of Tamilnadu Prohibition of Harassment of Women Act and Section II(V) r/w. Section 12 of Protection of Child from Sexual Offences Act, 2012.

3. The petitioner had earlier moved this Court seeking anticipatory bail. Finally his petition got dismissed. Challenging the same, the petitioner moved the Hon'ble Supreme Court by filing S.L.P. The said S.L.P. was also dismissed with a direction to surrender before the Trial Court and apply for regular bail. Contrary to the direction given by the Hon'ble Supreme Court that the learned Public Prosecutor should be given 48 hours notice, the trial Court granted bail to the petitioner on the same day of surrender. The order passed by the Trial Court was set aside by this Court in Crl.O.P.(MD)No.4142 of 2019. The S.L.P. filed by the petitioner challenging the same suffered dismissal on 20.05.2019.



Thereafter instead of surrendering before the Trial Court, the petitioner filed a petition for anticipatory bail before this Court. This Court dismissed the said petition as not maintainable. Thereupon the petitioner surrendered before the Court below on 16.12.2019. His bail petition was dismissed on 07.01.2020. Thereafter, the petitioner moved this Court seeking regular bail.

4. The learned counsel appearing for the petitioner submits that the material witnesses have already been examined. There are totally 29 witnesses in this case. He submitted that in the very nature of things, the case is likely to take some more time. He wanted this Court to grant bail.

5. He also pointed out that the petitioner has been charged not with having had any sexual intimacy with the victims. Their primary charge against the petitioner is only under Section 12 of Protection of Child from Sexual Offences Act which is punishable for a period of three years. The said provision does not prescribe any minimum sentence.

6. The material witnesses have been examined. The prospect of the petitioner interfering with the course of justice is virtually remote.

7. Taking note of the period of incarceration, I am inclined to enlarge the petitioner on bail with certain conditions. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions;

(i) the petitioner shall execute 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 Special Court for POCSO Offences, Thoothukudi, Thoothukudi District.

(ii) the petitioner is directed to appear before the respondent police as and when required for the interrogation.

(iii) 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].

sd/-
11/02/2020

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/ /2020
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1.THE SPECIAL JUDGE FOR POSCO OFFENCES,
THOOTHUKUDI, THOOTHUKUDI DISTRICT.

2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THOOTHUKUDI, THOOTHUKUDI DISTRICT.

3.THE OFFICER INCHARGE
SUB JAIL, TUTICORIN.

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

+1. CC to M/S.S.PALANI VELAYUTHAM Advocate SR.No.2820

ORDER
IN
CRL OP(MD) No.624 of 2020
Date :11/02/2020

IAS
TK/PN/SAR.1/11.02.2020/3P/6C