



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 28/07/2020

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PRESENT

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

CRL OP(MD) . No.4855 of 2020

Isravel

... Petitioner/Sole Accused

Vs

State Rep.by  
The Inspector of Police,  
All Women Police Station,  
Kanyakumari,  
Kanyakumari District.  
(Crime No.8 of 2020)

... Respondent/Complainant

For Petitioner : M/s.K.Gokul,  
Advocate.

For Respondent : Mr.A.Robinson,,  
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

**PRAYER :-**

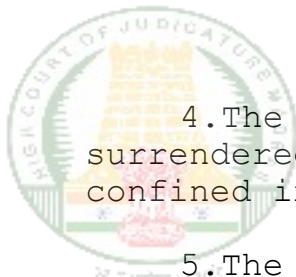
For Anticipatory Bail in Crime No. 8 of 2020 on the file of the Respondent Police.

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 apprehending arrest at the hands of the respondent police for the offences punishable under section 5(1), 5(m) and 6 of Protection of Child from Sexual Offence Act,2012, (POCSO), in Crime No.8 of 2020 on the file of the respondent police, seeks anticipatory bail.

3. This Court made it clear that since the petitioner is an accused under POCSO Act, this Court would not be inclined to grant anticipatory bail. However, this Court stated that if the petitioner surrenders before the respondent, this Court would convert the anticipatory bail petition into a bail petition.



4.The petitioner's counsel states that the petitioner surrendered before the respondent police on 24.07.2020. He is now confined in the Kuzhithurai Sub Jail, Kanyakumari District.

5.The case of the prosecution is that the petitioner had committed the offence in the second week of May, 2019. Even according to the defacto complainant, who is the mother of the victim, the incident was narrated after 8 ½ months. There is a gross delay in lodging the FIR. The petitioner is aged about 67 years.

6.I am of the view that the continued incarceration of the petitioner is not going to serve any purpose. However, the victim and the petitioner are residing in the adjacent houses. Therefore, the petitioner ought to keep away from the victim girl.

7.The petitioner's counsel states that the petitioner will stay at Tirunelveli.

8.The respondent is directed to expedite filing of the final report and the petitioner can apply for modification of this condition regarding staying away after the victim is examined.

9.The petitioner's counsel gives an undertaking that he will not for relaxation of this condition.

10.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 learned Special Court for Exclusive Trial of Cases under POCSO Act, Kaniyakumari at Nagercoil.

i) the petitioner shall report before the respondent police as and when required.

ii)the petitioner shall stay at Tirunelveli.

iii)On breach of any of the aforesaid conditions, the learned Special Court /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 Special Court /Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

iv) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

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



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

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- TO
1. THE JUDGE,  
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,  
KANYAKUMARI AT NAGERCOIL.
  2. THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,  
KANYAKUMARI, KANYAKUMARI DISTRICT.
  3. THE OFFICER INCHARGE, SUB JAIL,  
KUZHITHURAI, KANYAKUMARI DISTRICT.
  4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER  
IN  
CRL OP(MD) No.4855 of 2020  
Date : 28/07/2020

MS/VR/SAR-3/28.07.2020/3P.5C