



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

Date : 23/03/2020

PRESENT

The Hon`ble Dr.Justice G.JAYACHANDRAN

CRL OP(MD). No.5083 of 2020

Bibin

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station, Colachel,
Kanyakumari District.
Crime No.3/2020.

... Respondent/Complainant

For Petitioner : M/s.R.Russel Raj, Advocate.
For Respondent : Mr.S.Chandarasekar,
Additional Public Prosecutor

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

PRAYER :-

for bail in Crime No.3 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner herein was arrested on 31.01.2020 by All Women Police Station, Colachel, based on the complaint given by the Sup-Inspector of Police, Anti-Human Traffic Unit. The allegation against the petitioner is that he has downloaded the obscene pictures of minor children and share it with friends by using fake Face Book account. Since he has been indulging in the offence of transmitting material depicting children in sexual exploit, he was arrested for the offences under Sections 67(A), 67(B) of the Information Technology Act and Section 14(1) of POCSO Act.

2.The learned counsel for the petitioner would submit that the petitioner is innocent person and he is pursuing his Diploma Course in Electrical Communication Engineering. The case has been maliciously foisted against him.

3.The learned Additional Public Prosecutor appearing for the State would submit that the petitioner inspite of vide publicity given by the ADGP not to view, download or transmit the material depicting sexual exploit pictures and pornography material, this petitioner been indulged in such prohibited act, which are



punishable under Sections 67(A) and 67(B) of the Information Technology Act besides Section 12 of POCSO Act. Since it is difficult to prevent the petitioner from indulging in similar act, he oppose grant of bail.

4. On perusing the First Information Report and the confession statement given by the petitioner herein, this Court is of the opinion that since substantial portion of the investigation is completed, the petitioner shall be granted bail on the following conditions.

5. The petitioner shall give his Face Book account and give an undertaking that he will not open any new Face Book account or use any other account to access Face Book for transmitting sexual exploit pictures. Subject to the satisfaction of the said undertaking, the petitioner is ordered to be released bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties each for a like sum to the satisfaction of the Special Judge for exclusive trial of cases under POCSO Act, Kanyakumari District at Nagercoil;

[a] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

[b] the petitioner shall report before the respondent police as and when required for 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 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].

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

sd/-
23/03/2020

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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 EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
KANYAKUMARI DISTRICT AT NAGERCOIL.
 2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, COLACHEL,
KANYAKUMARI DISTRICT.
 3. THE OFFICER INCHARGE
SUB JAIL, NAGERCOIL,
KANYAKUMARI DISTRICT.
 4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. CC to M/S.R.RUSSEL RAJ Advocate SR.No.5649

ORDER
IN
CRL OP(MD) No.5083 of 2020
Date :23/03/2020

SJI
TK/VR/SAR.3/23.03.2020/3P/6C