



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/07/2020

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PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.7011 of 2020

Gurusamy

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai City, Madurai.
Crime.No.13/2020.

... Respondent/Complainant

For Petitioner : M/s.M.Subash Babu,
Advocate.

For Respondent : Mr.K.Suyambulinga Bharathi,
Government Advocate (Crl.Side)

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

PRAYER :-

For Anticipatory Bail in Crime No.13 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner apprehending arrest at the hands of the respondent police for the offences punishable under sections 7 & 8 of Protection of Child from Sexual Offences Act, 2012, in Crime No.13 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is a sole accused and the defacto complainant is a minor girl namely; S. Divya aged about 14 years who is studying 9th standard in C.E.O.A School. The allegation against the petitioner is that the petitioner said to have touched the minor girl/defacto complainant and tried to commit sexual assault and immediately she escaped and informed about the incident to her parents. Hence, the complaint.



3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (criminal side) appearing for the respondent.

4. The learned counsel appearing for the petitioner would submit that he is a Senior citizen having several age old ailments. He would further submit that he has not committed any offence as alleged by the prosecution. He would further submit that there was a dispute with regard to usage of compound wall between the petitioner and the defacto complainant's father. The petitioner has not indulged in any serious activities. Hence, he seeks anticipatory bail.

5. The learned Government Advocate (criminal side), on instructions, submitted that the victim girl also given a statement under Section 164 of Criminal Procedure Code before the learned Magistrate and clearly stated the petitioner has touched the victim girl with bad intention.

6. Considering the rival submissions and also perused the records. From the statement of the victim girl given under Section 164 of Cr.P.C., it could be seen that the petitioner said to have touched the girl with a bad intention and also considering the fact that the petitioner is a Senior citizen and he is having several age old ailments, this Court is inclined to grant anticipatory bail to the petitioner with stringent conditions.

7. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance before the Special Court for POCSO Act Cases, Madurai, and on his executing a bond for a sum of Rs.50,000/- (Rupees Fifty thousand only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further condition that,

[a] the petitioner shall appear before the respondent police on every Monday at 10.30 a.m without fail, until further orders.

[b] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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

[d] 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



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

sd/-
17/07/2020

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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.

TO

- 1.THE SPECIAL COURT FOR POCSO ACT CASES,
MADURAI.
- 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THALLAKULAM,
MADURAI CITY, MADURAI.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,MADURAI.

+1. CC to M/S.M.SUBASH BABU Advocate SR.No.5788

ORDER
IN
CRL OP(MD) No.7011 of 2020
Date :17/07/2020

KSA
TK/PN/SAR.2/22.07.2020/3P/5C