



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 31/07/2020

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PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.7761 of 2020

Rajasekar

... Petitioner/Accused No.1

Vs

The State Rep. by
The Inspector of Police,
Papanadu Police Station,
Thanjavur District.
Cr.No. 698 of 2020.

... Respondent/Complainant

For Petitioner : Mr.M.Pitchai Muthu,
Advocate.

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

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

PRAYER :-

For Bail in Cr.No.698 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/1st accused herein was arrested and remanded to judicial custody on 27.05.2020 for the alleged offences under Section 366(A) of IPC @ Sections 3 and 4 of POCSO Act 2012.

2.The case of the prosecution is that the the petitioner/A-1 with the help of his brother/A-2 had kidnapped the victim girl, who is aged about 17 years, for the purpose of getting her married. Thereafter, A-1 has sexually assaulted the victim minor girl. Therefore, based on the complaint given by her mother, the present case has been registered.



3.The learned counsel for the petitioner would submit that the petitioner did not kidnap the victim and on her own volition, the victim came from her parental home and thereafter, the petitioner left the girl in her house. He would also submit that the petitioner is innocent and he was arrested and remanded to judicial custody on 27.05.2020.

4.The learned Government Advocate(Crl.Side) would submit that victim girl is the minor aged about 17 years. The petitioner and his brother/A2 had kidnapped the girl with an intention to marry her and also A-1 has sexual intercourse with the victim girl. Based on the complaint given by her mother, the case was registered, subsequently, the petitioner was arrested and remanded to judicial custody. A-2 is still absconding.

5.On perusal of the records including the statement of the victim girl given under Section 161(3) Cr.P.C and also Section 164 (5) of Cr.P.C. to the learned Judicial Magistrate, reveals that the victim girl on her own volition came out from her parental house and then the petitioner and the victim girl stayed in his friend's house in a week. Thereafter, the petitioner and A-2 brought the minor victim girl to her parental house.

6.Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

7.Accordingly, the petitioner is ordered to be released on bail 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 District Munsif-cum-Judicial Magistrate, Orathanadu, Thanjavur District.

i) 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

ii) the petitioner shall report before the respondent police once in a week i.e., on every Monday at 10.30 a.m until further.

iii)the petitioner shall not tamper with evidence or witness.

iv) the petitioner shall not abscond during trial.

v)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 were breached 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].

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

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/ /2020
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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
ORATHANADU, THANJAVUR DISTRICT.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
THANJORE DISTRICT AT KUMBAKONAM.
3. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.
4. THE INSPECTOR OF POLICE,
PAPANADU POLICE STATION,
THANJAVUR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.7761 of 2020
Date :31/07/2020

SJI

TE/SKN/SAR-III : 03/08/2020 : 3P/6C

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