



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 07/08/2020

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PRESENT

The Hon'ble Mr. Justice V. BHARATHIDASAN

CRL OP (MD) . No.8066 of 2020

M. Rajadurai @ Madhavan

... Petitioner/Accused No.1

Vs

The State rep. by
The Inspector of Police,
Tiruchuli Police Station,
Tiruchuli,
Virudhunagar District
(Crime No. 228 of 2019).

... Respondent/Complainant

For Petitioner : M/s. J. Sankara Pandian,
Advocate.

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

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

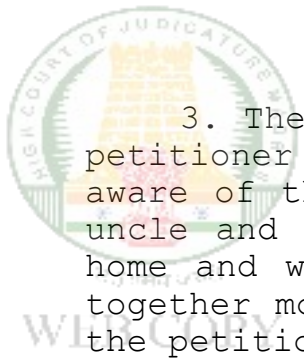
PRAYER :-

For Bail in Crime No. 228 of 2019 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner herein was arrested and remanded to judicial custody on 02.03.2020 for the alleged offences under Section 363 of IPC and Sections 5(1), 5(j)(ii) and 6 of POCSO Act, 2012 and Sections 9 & 10 of Child Marriage Act 2006.

2. The case of the prosecution is that the petitioner herein arrayed as A-1. The allegation is that the minor victim girl, namely; Pandi Rani who was aged about 17 years already got married to her maternal uncle and thereafter, the petitioner said to have kidnapped the minor victim girl and married her on 22.08.2019 and both the petitioner and the victim girl lived together more than eight months and hence, the victim minor has got pregnant. Thereafter, based on a complaint given by the mother of the minor victim girl the petitioner was arrested on 02.03.2020.



3. The learned counsel for the petitioner would submit that the petitioner and the minor victim girl loved each other and he is not aware of the earlier marriage of the victim girl with her maternal uncle and on her own wish the minor victim girl left her parental home and went along with the petitioner and got married and lived together more than eight months. He would further submit that, even the petitioner is ready to living with the victim minor girl.

4. The learned Government Advocate (criminal side) would submit that the minor victim girl was already got married and thereafter, the petitioner said to have kidnapped the minor victim girl and married her and also living together more than eight months and now she got pregnancy above eight months.

5. Considering the facts and circumstances of the case and on perusal of the materials available on record, including 164 (5) Cr.P.C. statement given by the minor victim girl before the learned Judicial Magistrate No.II, Virudhunagar, it would seen that the victim minor left her parental home and both the petitioner and the victim girl got married and both of them lived together more than eight months and thereafter, only based on a complaint given by the mother of the victim the crime has been registered after eight months, considering the above circumstances, this Court inclined to grant bail to the petitioner subject to the following conditions:

6. 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 Special Judge for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur.

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 as and when required for interrogation.

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 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].



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

sd/-
07/08/2020

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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 JUDGE FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
2. THE JUDICIAL MAGISTRATE NO.II,
VIRUDHUNAGAR.
3. DO THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
4. THE SUPERINTENDENT,
CENTRAL PRISON,
MADURAI.
5. THE INSPECTOR OF POLICE,
TIRUCHULI POLICE STATION,
TIRUCHULI,
VIRUDHUNAGAR DISTRICT
6. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER IN
CRL OP(MD) No.8066 of 2020
Date :07/08/2020

KSA

<https://hcs.eports.gov.in/rcservices/> 07.08.2020/ 3P/7C