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THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 04/09/2020

PRESENT

The Hon'ble Mr.Justice G.R.SWAMINATHAN

CRL OP(MD) . No.9412 of 2020

Berlin Jose

... Petitioner/Accused No.2

Vs

The State rep. by
The Inspector of Police,
M.Chatrapatti Police Station,
Madurai District.
in Crime No.169 of 2019.

... Respondent/Complainant

For Petitioner : Mr.Ananthapadmanaban for
M/s.Apn Law Associates,
Advocate.

For Respondent : Mr.K.Dinesh Babu,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.169 of 2019 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 Additional Public Prosecutor appearing for the respondent.

2. The petitioner / A2 is in custody since 23.10.2019 in Crime No.169 of 2019 registered on the file of the respondent for the offence under Sections 5(d), (m), 5(1)(j)(i) and 6 of Protection of Children from Sexual Offences Act, 2012. He seeks bail.

3. The learned Additional Public Prosecutor appearing for the respondent strongly opposed the grant of bail by pointing out that

<https://hcservices.ecourts.gov.in/hcservices/>



the allegations made against the petitioner are very serious.

4. But, then, this Court cannot be unmindful of the long period of incarceration of the petitioner. The petitioner was arrested on 23.10.2019 and we are now on 04.09.2020, almost 11 months have elapsed since the petitioner arrested on detention. In the meanwhile, the petitioner was detained under the Goondas Act. The detention order has since been revoked by the Hon'ble Division Bench. It is seen that though the charge sheet has been made ready, it is yet to be filed. Therefore, even under Section 167(2) of Cr.P.C. the petitioner is entitled to default bail. I am of the view that I can grant bail to the petitioner on merits.

5. The learned counsel for the petitioner, on instructions, gives an undertaking that the petitioner will not come in contact with the victim or her family for any reason or under any pretext. The said undertaking is recorded. This undertaking has to be necessarily given, because the case on hand pertains to Protection of Children from Sexual Offences Act, 2012. Since the investigation is admittedly over, no purpose will be served in keeping the petitioner in continued detention.

6. The petitioner's counsel states that in view of the current pandemic time, the petitioner is not in a position to offer sureties. He states that the petitioner will surrender the original passport and will not leave the country without permission of the trial Court.

7. Taking note of the current pandemic times, I direct that the petitioner shall be released on his own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only). Within a period of four weeks thereafter, the petitioner shall offer two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Mahalir Neethimandram, Madurai.

8. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions

(i) the petitioner shall be released on own bond by the Sessions Judge. The petitioner is directed to furnish two sureties each for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the Sessions Judge, Mahalir Neethimandram, Madurai, within a period of four weeks thereafter.

(ii) the petitioner is directed to appear before the respondent police as and when required for the interrogation.

(iii) 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].

sd/-
04/09/2020

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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 SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, MADURAI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
M.CHATRAPATTI POLICE STATION,
MADURAI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.9412 of 2020
Date :04/09/2020

LS
SRS/ JC/ SAR-I/ 07.09.2020/ 3P/5C