



WEB COPY

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

Date : 10/09/2020

PRESENT

The Hon'ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.9548 of 2020

Esakkipandi

... Petitioner/1st Accused

Vs

The State Rep. by
The Inspector of Police,
All Women Police Station,
Nanguneri,
Tirunelveli District.
Crime No.14/2020.

... Respondent/Complainant

For Petitioner : M/s.D.Venkatesh,
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.14/2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1 herein was arrested and remanded to judicial custody on 02.08.2020 for the alleged offences under Sections 5(i) 6 and 17 of the Protection of Children from Sexual Offences Act 2012 and Sections 9,10 and 11 of the Prohibition of the Child Marriage Act ,2006.

2. The victim in this case is 15 years. Based on the complaint given by the Social Welfare Officer the present complaint has been lodged on the ground that the petitioner got married to the victim on 02.10.2019, subsequently she got pregnant and she was admitted in the Palayamkottai Government Hospital and delivered a child. After coming to know the fact that the present complaint has been filed on 02.08.2020.



3. The learned counsel for the petitioner would submit that the petitioner and the victim are closely related and it is an arranged marriage and the marriage took place on 02.10.2019 and now they are living together happily and the victim has also delivered a child. Now after one year of marriage the present complaint has been filed and the petitioner was arrested. He would also submit that the petitioner is in jail for nearly 35 days, hence he may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that the victim girl is a minor and she got married to the petitioner and now she delivered a child, in respect of which a case has been registered.

5. Taking note of the above facts and circumstances of the case and also taking note of the fact that marriage took place on 02.10.2019 and now the victim also delivered a child and also the fact that the investigation is almost completed and also taking into consideration the period of incarceration, this Court is 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.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli

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/-

10/09/2020

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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,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
2. THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NANGUNERI,
TIRUNELVELI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.9548 of 2020
Date :10/09/2020

AAV
TE/PN/SAR-III : 10/09/2020 : 3P/5C