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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/09/2020

PRESENT

The Hon`ble Mr.Justice V.BHARATHIDASAN

CRL OP(MD) . No.10412 of 2020

Natarajan ... Petitioner/Sole Accused

Vs

State rep.by its
The Inspector of Police,
All Women Police Station,
Ambasamudram, Tirunelveli District.
(Crime No.5 of 2020).

... Respondent/Complainant

For Petitioner : Mr.S.Sundarapandian,
Advocate.

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

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

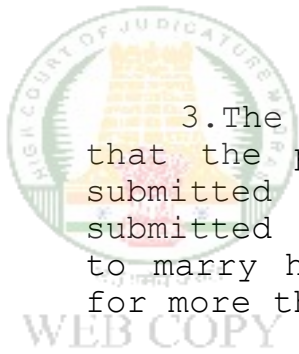
PRAYER :-

For Bail in Crime No.5 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused herein was arrested and remanded to judicial custody on 18.07.2020 for the alleged offences under Sections 366(A), 376 of IPC and Section 6 r/w Sections 5(1), 5(i), (ii) of Protection of Children from Sexual Offences Act, 2012, in Crime No.5 of 2020 on the file of the respondent Police, seeks bail.

2.The defacto complainant is the mother of the victim girl. The case of the prosecution is that the petitioner was in love with the victim, who is aged about 17 years and she is a minor girl and on false promise he had sexual intercourse with the victim, due to which, she got pregnant, now, the petitioner refused to marry her. Based on the complaint given by the mother of the victim, the present case has been registered.



3.The learned counsel appearing for the petitioner submitted that the petitioner and the victim loved each other. He further submitted that the petitioner is not having parents. He further submitted that after attaining majority, the petitioner is willing to marry her. He further submitted that the petitioner is in jail for more than 65 days. Hence, he may be granted bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner was in love with the victim and on false promise he had sexual intercourse with the victim, due to which she got pregnant, when the victim asked the petitioner to marry her, he refused to marry. Hence, the crime has been registered. Subsequently, the victim gave birth to female child. He further submitted that the investigation is almost over.

5.From the perusal of the record including the statement recorded under Section 164(5) of Cr.P.C, it is seen that both the petitioner and the victim loved each other the victim on her own volition had sexual intercourse with the petitioner, due to which, she got pregnant.

6.Considering the facts and circumstances of the case and also considering the fact that the occurrence said to have taken place in the month of October, 2019 and complaint has been filed 07.07.2020 and with a delay of nine months and also considering the period of incarceration and the fact that the investigation is almost over, 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 Principal Sessions, 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 *Pradeep Kumar P. 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/-
28/09/2020

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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 JUDGE,
PRINCIPAL SESSIONS, SPECIAL COURT FOR POSCO ACT CASES,
TIRUNELVELI.
- 2.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, AMBASAMUDRAM,
TIRUNELVELI DISTRICT.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.10412 of 2020
Date :28/09/2020

vsg
AE/JC/SAR-III (29.09.2020) 3P 5C