



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 03/11/2020

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PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.12275 of 2020

Amalraj

... Petitioner/Accused Rank No.1

Vs

State Rep. by
The Inspector of Police,
All Women Police Station,
Aruppukottai, Virudhunagar District.
(Crime No. 12 of 2020). ... Respondent/Complainant

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

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 07.09.2020 for the offences punishable under Sections 363 of IPC r/w. Sections 3,4,5(1),5(1)(i)(ii) r/w. 6 of POCSO Act, 2012 and Section 9 r/w. 10 of Child Marriage Act on the file of the respondent police seeks bail.

2.The case of the prosecution is that the first accused fell in love with the victim girl aged about 18 years and abducted her with the help of other accused persons. Thereafter he had sexual assault on her, due to which she became pregnant. Subsequently they got married and a male child was born to them.

3.The learned counsel for the petitioner would submit that the petitioner fell in love with the victim girl aged about 18 years and she got pregnant and also gave birth to a male child. Due to the illness of the child, however the respondent police foisted a false



Section 302 of IPC, as if the petitioner and the victim murdered the child. Now the petitioner is ready and willing to take the victim girl and undertakes to register their marriage immediately after coming out from prison.

4. The learned Government Advocate(Crl.Side) would submit that there are four accused in this case and the petitioner herein is arrayed as A1. The petitioner with the help of other accused persons kidnapped the victim girl and had sexual assault on her, due to which she got pregnant and gave birth to a male child. While being so both the petitioner and the victim killed their child and as such separate case has been registered in Crime No. 51 of 2020 for the offence under Sections 302,203 and 109 of IPC on the file of the Kariyapatti Police Station, Virudhunagar District and it is pending investigation.

5. It is seen that there are four accused in this case and the petitioner herein is A1. The petitioner fell in love with the victim girl aged about 18 years and also gave birth to a male child and now the petitioner is willing to register the marriage with the victim girl and undertakes to live with her. Further the in the case in Crime No.51 of 2020, the petitioner was enlarged on bail.

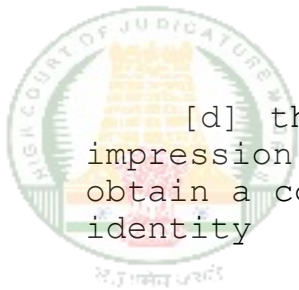
6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

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

[a] the parents of the petitioner shall file a affidavit for their consent to register the marriage between the petitioner and the victim girl before the Special Court for Exclusive trial of cases under POCSO Act, Virudhunagar District at Srivilluputhur.

[b] On receipt of such affidavit ,the petitioner shall execute a bond for a sum of Rs.10,000/-(Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for Exclusive trial of cases under POCSO Act, Virudhunagar District at Srivilluputhur

[c] the petitioner shall register the marriage with the victim girl namely Sushmitha, D/o. Soosaimanickam on or before 20.11.2020 and produce the Marriage Registration Certificate before the respondent police and if the petitioner fails to register the marriage the respondent police is directed to secure the petitioner herein and proceed in accordance with law.



[d] 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

[e] the petitioner shall report before the respondent police daily at 10.30 a.m for a period of four weeks and thereafter as and when required for interrogation

[f] the petitioner shall not tamper with evidence or witness.

[g] the petitioner shall not abscond during trial.

[h] 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].

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

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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,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARUPPUKOTTAI, VIRUDHUNAGAR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.



4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.D.RAJABOOPATHY Advocate SR.No.7233

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ORDER

IN

CRL OP(MD) No.12275 of 2020

Date :03/11/2020

aav

JM/VR/SAR IV/03.11.2020/4P/6C