



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/11/2020

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PRESENT

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

CRL OP(MD). No.12462 of 2020

Sornamoorthy @ Swarnamoorthy

... Petitioner/Accused (A1)

Vs

State Rep. by
The Inspector of Police,
Nagercoil, All Women Police Station,
Kanniyakumari District.
Crime No. 25 of 2020.

... Respondent/Complainant

For Petitioner : M/s.A.S.Vaigunth,
Advocate.

For Respondent : Mr.R.Erottuchamy,
Government Advocate (Crl.Side)

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

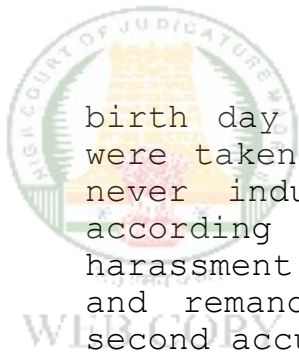
PRAYER :- For Bail in Cr.No.25 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 27.09.2020 for the offences punishable under Sections 7, 8, 11 (v) of POCSO Act, on the file of the respondent police seeks bail.

2.The case of the prosecution is that the victim aged about 14 year was invited by the petitioner for his birth day function. In the birth day function, he cut the cake and attempted to kiss the victim girl and the same was taken by the second accused as photos. Thereafter, she was threatened and compelled to come to his house based on the photograph taken by A2 as if, it will be posted in the social media such as face book, whats app etc., Hence, the complaint.

3.The learned counsel for the petitioner would submit that there are totally two accused persons in which, the petitioner



birth day function . The victim girl also present and photographs were taken in the birth day party. Except the same, the petitioner never indulged any crime as alleged by the prosecution. Even, according to the case of the prosecution, there was no sexual harassment. He further submitted that the petitioner was arrested and remanded judicial custody on 27.09.2020 and insofar as the second accused is concerned, he was arrested and released on bail.

4. The learned Government Advocate (Crl.Side) would submit that there are totally two accused in which, the petitioner arrayed as A1. The victim girl aged about 14 year was invited by the petitioner for his birth day function. In the birth day function, he cut the cake and attempted to kiss the victim girl and the same was taken by the second accused as photos. Thereafter, she was threatened and compelled to come to his house based on the photograph taken by A2 as if, it will be posted in the social media such as face book, whats app etc.,

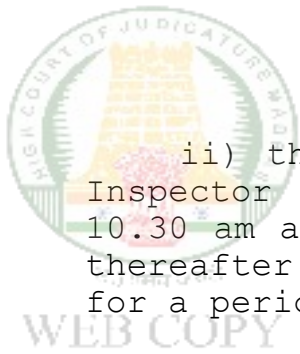
5. The learned Government Advocate (Crl.Side) also produced the statement recorded under Section 164 Cr.P.C. It is seen that the petitioner is A1. When the victim girl was invited by the petitioner for his birth day function, the first accused presented chain and ring to the victim girl and attempted to kiss her. The second accused had taken photograph of the same. Thereafter, the petitioner threatened the victim girl as if she fails to come to his house, the photograph will be posted in the social media such as face book, whats app etc.

6. A perusal of the statement recorded under Section 164 Cr.P.C reveals that the petitioner attempted to kiss the victim girl and had taken photograph. Thereafter, he also threatened the victim girl as if she does not co-operate to his, he will post the photographs in the social media.

7. 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:

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood sureties each for a like sum to the satisfaction of the learned Sessions Judge Special Court For POCSO Act Cases, Nagercoil, (F.A.C).

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 stay at Madurai and report before the Inspector of police, Anna Nagar Police Station, daily Morning at 10.30 am and Evening at 05.30 p.m., for a period of four weeks and thereafter appear before the respondent police daily at at 10.30 am for a period of two weeks and thereafter, as and when required.

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/-
23/11/2020

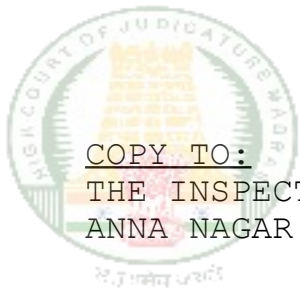
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

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 SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
NAGERCOIL, (F.A.C).
- 2 THE INSPECTOR OF POLICE,
NAGERCOIL, ALL WOMEN POLICE STATION,
KANNIYAKUMARI DISTRICT.
- 3 THE OFFICER INCHARGE,
DISTRICT PRISON, NAGERKOIL..
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.



COPY TO:
THE INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION, MADURAI.

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ORDER
IN
CRL OP (MD) No.12462 of 2020
Date :23/11/2020

dss
JM/VR/SAR II/23.11.2020/4P/6C