



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

Date : 22/12/2020

PRESENT

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

CRL OP(MD). No.15469 of 2020

Moorthy

... Petitioner/Accused

Vs

State rep.by
The Inspector of Police,
All Women Police Station,
Nagercoil,
Kanyakumari District.
Crime No.47 of 2020.

... Respondent/Complainant

For Petitioner : Mr.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 Crime No.47 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who was arrested and remanded to judicial custody on 18.10.2020 for the offences punishable under Sections 448,342 of IPC and Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 on the file of the respondent police seeks bail.

2. The mother of the victim is the defacto complainant. The case of the prosecution is that the petitioner herein entered into house of the victim and locked the room. When the defacto complainant woke up at 4.30 am.,she found the petitioner running out of the house. When she enquired the victim she replied that the petitioner hugged and kissed her.

3.The learned counsel for the petitioner would submit that no such occurrence said to have taken place on the date of alleged occurrence. The victim girl called the petitioner on 17.10.2020 and he picked her in his motor cycle and thereafter he called the defacto complainant and handed over the victim to her parents



through respondent police and he has nothing to do with the incident as alleged by the defacto complainant. He would also submit that no offence was committed by the petitioner and he only entered into the house of the defacto complainant. He further submitted that the petitioner was arrested and remanded to judicial custody on 18.10.2020, hence he seeks bail.

4. The learned Government Advocate(Crl.Side) would submit that the petitioner herein entered into house of the victim and locked the room. When the defacto complainant woke up at 4.30 am., she found the petitioner running out of the house. When she enquired the victim she replied that the petitioner hugged and kissed her. Further he also produced the 164 Cr.P.C statement of the victim girl, wherein she has stated that the victim girl fell in love with the petitioner herein and when it came to the knowledge of the parents, they had beaten her and as such she immediately call the petitioner through phone and she along with the petitioner went in a two wheeler and the petitioner himself contacted the mother of the victim and handed over to the parents by the respondent police and therefore no such occurrence has taken place as alleged by the defacto complainant.

5. 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:

6. 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 Special Court for POCSO Act Cases, Kanyakumari District at Nagercoil

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 daily at 10.30 a.m for a period of four weeks and thereafter 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 *Govindarajan P. v. State of Kerala* [(2005) AIR SCW 5560].



vi) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
22/12/2020

/ TRUE COPY /

WEB COPY

/ /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 SPECIAL JUDGE FOR POCSO ACT CASES,
KANYAKUMARI DISTRICT AT NAGERCOIL.
- 2 THE SUPERINTENDENT, CENTRAL PRISON,
PALAYAMKOTTAI.
- 3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION,
NAGERCOIL, KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.15469 of 2020
Date :22/12/2020

MS/PN/SAR-2/22.12.2020/3P.5C