



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

Date : 05/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.850 of 2021

Kumar @ Mathankumar

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Aruppukottai,
Virudhunagar District.
(Crime No.13/2020)

... Respondent/Complainant

For Petitioner : Mr.M.Chellapandian,
Advocate.

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

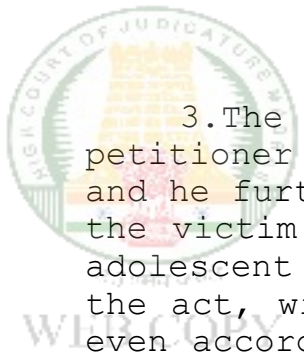
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :- For Bail Crime No.13 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 21.09.2020 for the offences punishable under Sections 5(1) and 6 of POCSO Act, in Crime No.13 of 2020 on the file of the respondent police, seeks bail.

2.The defacto complainant in this case is the mother of the victim girl, the victim is aged about 15 years. The case of the prosecution is that due to family situation the victim girl went to Jayavilas Mills as daily wager. The petitioner/accused was residing in the same village and he proposed his love to the victim girl, the victim girl refused and intimated the same to her parents. Thereafter on 15.09.2020 when the minor victim girl was going to work, the petitioner threatened her and took her to a forest area in a two wheeler, there committed aggravated penetrative sexual assault on her, several times and later refused to marry her. Hence the complaint.



3.The learned counsel for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution and he further stated that he had deep love with the victim girl and the victim also had same love with the petitioner and out of love, adolescent age and psychological factor, the petitioner committed the act, with consent of the victim. Not knowing the repercussions, even according to the case of prosecution they had physical contact several times. He would further submit that the petitioner and the parents of the petitioner filed an undertaking affidavit before this Court that after the victim girl attains majority, the parents of the petitioner are ready and willing to take the victim girl as their daughter-in-law, the petitioner undertakes to marry her. He would also submit that the petitioner is in jail for more than four months, hence he may be granted bail.

4.The learned Government Advocate(Crl.Side) would submit that the petitioner herein committed aggravated penetrative sexual assault on the victim aged about 15 years on several occasions, on the pretext of marrying the victim and now refused to marry her.

5.Taking note of the above facts and circumstances of the case and the petitioner and the parents of the petitioner having filed an undertaking affidavit before this Court that after the victim girl attaining majority, the parents of the petitioner are ready and willing to take the victim girl as daughter-in-law and the petitioner undertakes to marry her and on perusal of the 164 statement of the victim girl, it is seen that both the petitioner and the victim were in love relationship, considering these facts and 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 sureties each for a like sum to the satisfaction of the Special Court for Exclusively Trial of cases under POCSO Act, 2012, Virudhunagar District, at Srivilliputhur.

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 report before the respondent Police daily at 10.30 a.m for a period of two 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 P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

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

sd/-
05/02/2021

/ TRUE COPY /

/ /2021
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 EXCLUSIVELY TRAIL
OF CASES UNDER POCSO ACT, 2012,
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.

ORDER
IN
CRL OP(MD) No.850 of 2021
Date : 05/02/2021

VSG
MS/VR/SAR-4/08.02.2021/3P.5C