



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

Date : 25/01/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.963 of 2021

Manokannan

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Theni, Theni District.
Crime No.16 of 2020.

... Respondent/Complainant

For Petitioner : Mr.R.Shankar Ganesh,
Advocate.

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No. 16/2020 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 05.11.2020 for the offences punishable under Sections 6 of POCSO Act on the file of the respondent police seeks bail.

2.The case of the prosecution is that the petitioner herein has committed aggravated penetrative sexual assault on the minor victim girl aged about 15 years. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and a false case has been foisted against the petitioner. He would also submit that both the petitioner and the victim loved each other and victim on her own volition went along with the petitioner. He would also submit that the petitioner is in jail for more than 60 days, hence he may be granted bail.



4.The learned Government Advocate(Crl.Side) would submit that the petitioner has committed aggravated penetrative sexual assault on the minor victim girl aged about 15 years.

5.It is seen that the petitioner and the victim were in love and the victim girl was studying in Trichy and she used to visit her grand mother's house at Thanjavur during week ends. The petitioner belong to Periyakulam. The petitioner used to meet the victim at Trichy and on some occasion he had gone to Thanjavur and stayed in the victim's grand mother place. The love affair between the petitioner and the victim is known to the victim's sister and she used to make conference call and facilitated the victim and the petitioner to have conversation. In furtherance to their relationship the both of them had gone to various places such as Madurai, Kumbakonam and stayed there. Further they went to Kodaikanal and spent time. On suspicion when the police interrogated the petitioner and victim, they stated that they are brother and sister and when the police verified the phone details they found the close photos of the petitioner and the victim. Thereafter it was informed to the parents of the victim. The victim in her statement recorded under Section 164(5) of Cr.P.C he had clearly stated that she had voluntarily gone with the petitioner and thereafter on the assurance given by the petitioner that after attaining majority they both would get married, she subjected herself to the petitioner. It is seen that both of them were in love and due to adolescent age and physiologic effect and without knowing the seriousness had physical relationship.

6. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that the victim on her own left the house and stayed with the petitioner 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.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Theni.

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 until further orders.

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/-
25/01/2021

/ 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 SESSIONS JUDGE,
FAST TRACK MAHILA COURT, THENI.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THENI, THENI DISTRICT.
3. THE OFFICER INCHARGE,
DISTRICT PRISON, G.VILAKKU,
THENI, THENI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.963 of 2021
Date : 25/01/2021

AAV
TK/VR/SAR.1/25.01.2021/3P/5C