



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

Date : 08/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.1814 of 2021

Rajesh ... Petitioner/Sole Accused

Vs

The State rep.by
The Sub Inspector of Police,
All Women Police Station,
Aundipatti, Theni District.
Crime No.1 of 2021.

... Respondent/Complainant

For Petitioner : Mr.B.Arun,
Advocate.

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

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

PRAYER :-

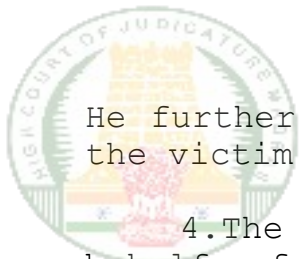
For Bail in Cr.No. 1 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, sole accused herein was arrested and remanded to judicial custody on 17.01.2021 for the alleged offences under Section 366 of IPC and Section 10 of POCSO Act, 2012, in Crime No.1 of 2021, on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that the petitioner and the victim girl were in love with each other. On the date of occurrence, the victim girl and the petitioner were talking over phone. When the same was known to the victim's parents, the petitioner and the victim girl went to Theni bus stand, where they are chatting and talking evening to night. At that time, the parents of the victim girl and the respondent police came to there and secure the victim girl. Hence, the case has been registered.

3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any serious offence as alleged by the prosecution. He further submitted that the petitioner and the victim girl loved each other.



He further submitted that the petitioner only talking over phone to the victim girl. Hence, he seek bail.

4.The learned Government Advocate (Crl. Side) appearing on behalf of the respondent Police submitted that the victim was produced before the Judicial Magistrate on 19.01.2021 and 164(5) Cr.P.C., statement recorded from the victim girl, in which, she had not stated anything about the sexual assault. The learned Government Advocate (Crl. Side) has also produced the 164(5) Cr.P.C. Statement of the victim girl before this Court.

5.On perusal of 164 (5) Cr.P.C. Statement of the victim, it is seen that the petitioner and the victim girl were in love each other and both of them talking over phone. It is also seen that the victim had called the petitioner to his grandmother's home and where they are sitting and chatting with each other. Fearing that the parents of the victim came to know her love affair with the petitioner, without knowing the repercussions, the victim has called the petitioner. Thereafter, both of them went to Theni Bus Stand, where they are sitting and talking evening to night, at that time, the petitioner said to have put his hand on the victim's shoulder and another hand placed on her thigh, which is normal act of closeness of lovers. Further, this incident is recorded in Theni Bus Stand CCTV camera. Other than that there is no overt act attributed against the petitioner. The parents of the victim had come there and secured the victim girl.

6.In view of the above facts and circumstances of the case and 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 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 Sessions Judge, Mahalir Neethimandram, (Fast Track 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 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 petitioner/accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
08/02/2021

/ 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 SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, (FAST TRACK COURT),
THENI.
2. THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AUNDIPATTI, THENI DISTRICT.
3. THE OFFICER INCHARGE,
DISTRICT JAIL, THENI.
4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.1814 of 2021
Date :08/02/2021

VSG
TK/VR/SAR.4/08.02.2021/3P/5C