



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

Date : 09/02/2021

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD). No.1922 of 2021

Esaimuthu

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Valliyoor,
Tirunelveli District.
Crime No.12/2020.

... Respondent/Complainant

For Petitioner : Mr.A.Sivasubramanian,
Advocate.

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

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

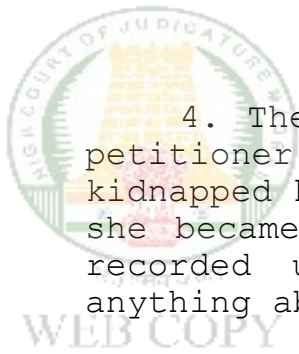
PRAYER :- For Bail in Crime No.12 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 23.12.2020 for the offences punishable under Sections 366,376 of IPC and 5(1),5(n),5(j)(ii) r/w. section 6 of POCSO Act, 2012 on the file of the respondent police seeks bail.

2.The case of the prosecution is that the petitioner on false promise of marrying the victim girl and had sexual intercourse with her, due to which she become pregnant. Based on the complaint given by the Social Welfare Officer, the present case has been registered. Hence the complaint.

3.The learned counsel for the petitioner would submit that both the petitioner and the victim loved each other and she on her own left her parental home and went with the petitioner. He would also submit that both the family are closely related to each other. He would also submit that the petitioner is in jail for more than 40 days, hence he may be granted bail.



4. The learned Government Advocate(Crl.Side) would submit that petitioner on false promise of marrying the victim girl had kidnapped her and also had sexual intercourse with her, due to which she became pregnant. He also produced the statement of the victim recorded under Section 164 wherein the victim has not stated anything about the petitioner herein.

5. It is seen that the petitioner is the none other than the uncle son the victim girl and there was a marriage proposal between them. The case came to be registered on the complaint given by the Social Welfare Officer. Further from the perusal of the statement of the victim recorded under Section 164 of Cr.P.C, it is seen that both petitioner and the victim loved each other and the parents of the petitioner and the victim decided to give in marriage the victim to the petitioner as per their family custom. Further in the statement of victim there I no allegation against the petitioner.

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 both the petitioner and the victim loved each other and marriage proposal is going on 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 Special Court for exclusive trial of cases under the POCSO Act, Tirunelveli

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

sd/-
09/02/2021

/ TRUE COPY /

WEB 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 EXCLUSIVE
TRIAL OF CASES UNDER THE POCSO ACT,
TIRUNELVELI.
2. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VALLIYOOR,
TIRUNELVELI DISTRICT.
3. THE SUPERINTENDENT, CENTRAL JAIL,
PALAYAMKOTTAI.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.1922 of 2021
Date : 09/02/2021

AAV
MS/VR/SAR-1/09.02.2021/3P.5C