



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

Date : 16/02/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.2388 of 2021

Mariappan ... Petitioner/Sole Accused

Vs

1.The State rep.by
The Inspector of Police,
Thoothukudi North Police Station,
Thoothukudi District.
Crime No.1020/2020. ...1st Respondent/Complainant

2.Chithra ... 2nd Respondent/Defacto Complainant

For Petitioner : Mr.S.Vishnuvardhan,
Advocate.

For Respondent No.1 : Mr.A.P.G.Ohm Chairma Prabhu,
Government Advocate (Crl.Side)

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

PRAYER :-

Bail in Crime no. 1020 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 09.01.2021 for the offences punishable under Sections 366(A) of IPC r/w.5(1)(i)(ii) r/w. 6 POCSO Act, on the file of the respondent police, seek bail.

2.The defacto complainant in this case is the mother of the victim. The case of the prosecution is that the petitioner and the victim loved each other and on false promise of marrying her had committed penetrative sexual assault on her,due to which she became pregnant. Hence the complaint.



3.The learned counsel for the petitioner would submit that the petitioner and the victim loved each other for the past 2 ½ years and the victim on her own left the parental home and stayed with the petitioner. He would also submit that now the petitioner is ready and willing to marry the victim after she attains majority, hence he seeks bail.

4.The learned Government Advocate(Crl.Side) would submit that the petitioner and the victim loved each other for the past 2 ½ years and the victim on her own left the parental home and stayed with the petitioner, where they have sexual intercourse, due to which she become pregnant and later aborted. Hence he opposed to grant bail to the petitioner.

5. It is seen that the victim girl is aged about 17 years and she was in love with the petitioner and the victim girl fearing that she will be married by mother to some other person, she compelled the petitioner to take her away. With no other option the petitioner had taken her away and thereafter they have physical relationship. Thereafter the mother of the victim had called her over phone and then both of them had come to the house of the petitioner and taken to respondent police, where the victim refused to go with her parents. Now the issue has been resolved by both the families and the mother of the victim had filed an affidavit before this Court stating that the marriage will be solemnized between the petitioner and the victim after she attains majority.

6.Taking note of the above facts and circumstances of the case also taking into consideration the period of incarceration, this Court is inclined to grant bail to the petitioner subject to the following conditions:

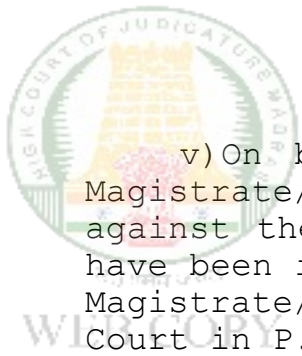
7.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Special Court for POCSO Act Cases, Thoothukudi.

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 am., 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/-
16/02/2021

/ 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 POCSO ACT CASES,
THOOTHUKUDI.
 2. THE INSPECTOR OF POLICE,
THOOTHUKUDI NORTH POLICE STATION,
THOOTHUKUDI DISTRICT.
 3. THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
 4. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1. C.C. to Mr.S.VISHNUVARDHAN Advocate SR.No.1054

ORDER
IN
CRL OP(MD) No.2388 of 2021
Date :16/02/2021

AAV
TK/PN/SAR.2/16.02.2021/3P/6C