



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

Date : 04/03/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.3394 of 2021

1.Esakkimuthu
2.Murugan
3.Mariamammal

... Petitioners/Accused
No.1 to 3

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Alangulam, Tirunelveli District.
Crime No.1/2021.

... Respondent/Complainant

For Petitioners : Mr.A.Mohamed Hashim,
Advocate.

For Respondent : Mr.R.Srinivasan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No. 1/2020 on the file of the respondent Police

ORDER : The Court made the following order :-

The petitioners/A1 to A3, who were arrested and remanded to judicial custody on 24.01.2021 for the offences punishable under Sections 5(1),5(n) and 6 of POCSO Act, Section 376 of IPC and Sections 9,10 and 11 of Prohibition of Child Marriage Act on the file of the respondent police seek bail.

2.The case of the prosecution is that the petitioner and the victim loved each other and their marriage was solemnized on 17.01.2021. The victim being a minor the present case has been lodged by the Social Welfare Officer.

3.The learned counsel for the petitioners would submit that the petitioners family and the victim family are relative since the



first petitioner and the victim loved each other both the families had decided to solemnize the marriage between them and the marriage was also held and now the victim was with the first petitioner, hence they may be granted bail.

4. The learned Government Advocate(Crl.Side) would submit that the first petitioner is the husband of the victim, second and third petitioners are the parents of A1. He would also submit that both the first petitioner and the victim loved each other, marriage was held and thereafter they had sexual relationship. He has also produced 164 Cr.P.C statement of the victim girl.

5. It is seen from the statement of the victim recorded under Section 164(5)Cr.P.C that A1 is the maternal uncle of the minor victim girl. The victim girl had voluntarily gone to the house of first petitioner and stayed there for one week there on her compulsion they had physical relationship. Further the victim has no birth certificate and parents of the victim are uneducated and the school authorities on their own had registered the date of birth in the register, which is not correct. Now both the family have accepted the marriage.

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

7. Accordingly, the petitioners are ordered to be released on bail on their executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two blood sureties each for a like sum to the satisfaction of the Special Court for POCSO Act Cases, 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 petitioners shall report before the respondent police as and when required for interrogation.

iii) the petitioners shall not tamper with evidence or witness.

iv) the petitioners 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 petitioners 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 *Shriji 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/-
04/03/2021

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/ /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 COURT FOR POCSO ACT CASES,
TIRUNELVELI.
- 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ALANGULAM, TIRUNELVELI DISTRICT.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN, PALAYAMKOTTAI.
- 4.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 5.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.3394 of 2021
Date :04/03/2021

AAV
TK/PN/SAR.3/04.03.2021/3P/6C