



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

Date : 15/03/2021

PRESENT

**The Hon`ble Mr.Justice M.NIRMAL KUMAR**

CRL OP(MD). No.3947 of 2021

S.Mohamed Isquake

... Petitioner/Petitioner/  
Sole Accused

Vs

State Rep.by  
The Inspector of Police,  
Kadayanallur Police Station,  
Tenkasi District.  
Crime No.85 of 2021.

... Respondent/ Respondent/  
Complainant

For Petitioner : Mr.R.J.Karthick,  
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.85 of 2021 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 23.02.2021 for the offences punishable under Sections 363,376 of IPC and Sections 5(1) 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 had sexual intercourse with her and thereafter refused to marry her. Hence the complaint.

3.The learned counsel for the petitioner would submit that both the petitioner and the victim loved each other and after she attained majority he is ready to marry the victim. He would also submit that the victim girl on her own volition left her parental home and went with the petitioner. He would also submit that the petitioner is in jail from 23.02.2021, hence he may be granted



4. The learned Government Advocate(Crl.Side) would submit that petitioner on false promise of marrying the victim girl had sexual intercourse with her and thereafter refused to marry her. He also produced the statement of the victim and her mother recorded under Section 164(3) wherein the victim has clearly stated that both the petitioner and the victim loved each other and the victim on her own left her parental home and went with the petitioner.

5.From the perusal of the 164 Cr.P.C statement of the victim it is seen that both the petitioner and the victim are relatives and they were in love with each other for quite some time and they continued their relationship. Both the families have decided to perform the marriage of the victim with the petitioner after she attains majority

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 the victim on her own left her parental home and went 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 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 petitioner shall report before the respondent police 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/-  
15/03/2021

/ 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  
POCSO ACT CASES, TIRUNELVELI.
2. THE SUPERINTENDENT, CENTRAL PRISON,  
PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
3. THE INSPECTOR OF POLICE,  
KADAYANALLUR POLICE STATION,  
TENKASI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT,  
MADURAI.

+1 CC to M/s.R.J.KARTHICK, Advocate ( SR-2111[I] dated 15/03/2021 )

ORDER  
IN  
CRL OP(MD) No.3947 of 2021  
Date :15/03/2021

AAV  
MS/VR/SAR-2/15.03.2021/3P.6C