



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/03/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.4391 of 2021

Thamarikannan

... Petitioner/Accused

Vs

The State rep.by,
The Inspector of Police,
Thirukostiyur Police Station,
Sivagangai District..

... Respondent/Complainant

For Petitioner : M/s.Karthik Kanna.N.,
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. 26 of 2021 on the file of the
respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who was arrested and remanded to
judicial custody on 06.03.2021 for the offences punishable under
Sections Girl Missing @ 5(1) and 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 the
false promise of marrying the victim girl had kidnapped her and had
sexual intercourse with her. Hence the complaint.

3.The learned counsel for the petitioner would submit that the
petitioner is innocent and a false case has been foisted against
him. He would also submit only the victim threatened and compelled
the petitioner to take her away from her house. He would also submit
since the petitioner is in jail from 06.03.2021, hence he seeks bail.



4. The learned Government Advocate(Crl.Side) would submit that petitioner on the false promise of marrying the victim girl had kidnapped her and had sexual intercourse with her. He also produced the 164 of Cr.P.C.

5. From the perusal of the statement recorded under Section 164 (5) of Cr.P.C it is seen that the victim on her own left the parental home and threatened and compelled the petitioner to take her away from her house and on her compulsion the petitioner had taken the victim and sexually assaulted her. Further the parents of victim are un-educated and the school authorities have entered the date of birth on their own and the date of birth in the school certificate is not her actual date of birth. Further the victim girl is now secured. Further the parents of the victim and the petitioner have filed a joint affidavit of compromise stating that they are ready to perform the marriage of the petitioner with the victim 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, 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 learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Sivagangai

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/-
25/03/2021

/ TRUE COPY /

WEB COPY

/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

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,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, SIVAGANGAI.
- 2 THE INSPECTOR OF POLICE
THIRUKOSTIYUR POLICE STATION,
SIVAGANGAI DISTRICT.
- 3 THE OFFICER INCHARGE,
SUB JAIL, SIVAGANGAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.4391 of 2021
Date :25/03/2021

NR/VR/SAR-III(25.03.2021) 3P:5C