



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/03/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD)No.4518 of 2021

Alagar

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
Thiruppuvanam Police Station,
Sivagangai District.
Crime No. 60 of 2021.

... Respondent/Complainant

For Petitioner : Ramalingam V,
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.60 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 14.02.2021 for the offence punishable under Sections 324, 452, 506(ii) IPC and Section 12 of Protection of Child from Sexual Offences Act, 2012 on the file of the respondent police seeks bail.

2.The case of the prosecution is that the petitioner compelled the victim girl to love him and trespassed into the house of the victim girl and sexually harassed her. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. Hence, he would pray for bail to the petitioner.



4.The learned Government Advocate(Crl.Side) would submit that the petitioner committed very serious offence against the minor girl and hence, he opposed to grant bail to the petitioner.

5.It is seen that the petitioner was in love with the victim girl. It is one side love. The petitioner was followed the victim girl whenever she went to school and caused harassment. On 08.02.2021, the petitioner gone to the house of the victim girl and picked up quarrel with her and also assaulted her. From 164 Cr.P.C., statement of the victim girl, it is seen that on 08.02.2021, when the victim girl was in her house, the petitioner came into the house and picked her and assaulted her with bottle. Thereafter, the complaint was given on 12.02.2021 and the petitioner was arrested on 08.02.2021 under Section 12 of POCSO Act for committal of sexual harassment.

6.Section 11 of the Protection of Children from Sexual Harassment Act reads as follows:

11. Sexual harassment.—A person is said to commit sexual harassment upon a child when such person with sexual intent,—

(i)utters any word or makes any sound, or makes any gesture or exhibits any object or part of body with the intention that such word or sound shall be heard, or such gesture or object or part of body shall be seen by the child; or

(ii)makes a child exhibit his body or any part of his body so as it is seen by such person or any other person; or

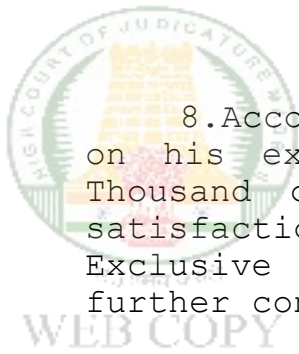
(iii)shows any object to a child in any form or media for pornographic purposes; or

(iv)repeatedly or constantly follows or watches or contacts a child either directly or through electronic, digital or any other means; or

(v)threatens to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act; or

(vi)entices a child for pornographic purposes or gives gratification therefor. From the allegation in the complaint as well as 164 Cr.P.C., statement, it is seen that the act of the petitioner would not fall under sexual harassment.

7.In view of the same, this Court is inclined to grant bail to the petitioner subject to the following conditions:



8. 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) each with two sureties for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, 2012, Sivagangai and on further condition that:

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.

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/-

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

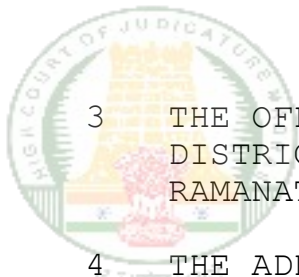
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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, 2012, SIVAGANGAI

2 THE INSPECTOR OF POLICE
THIRUPPUVANAM POLICE STATION,
SIVAGANGAI DISTRICT.



3 THE OFFICER INCHARGE,
DISTRICT PRISON,
RAMANATHAPURAM.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

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ORDER

IN

CRL OP(MD) No.4518 of 2021

Date :26/03/2021

NR/VR(26.03.2021) 4P:5C