



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

Date : 01/04/2021

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PRESENT

The Hon`ble Mr.Justice M.NIRMAL KUMAR

CRL OP(MD) . No.4994 of 2021

Servaraj @ Raj

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
Kadayam Police Station,
Tirunelveli District.
Crime No.96/2021.

... Respondent/Complainant

For Petitioner : 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. 96 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 09.03.2021 for the offences punishable under Sections Women Missing @ Section 376 of IPC and Section 9 of Prohibition of Child Marriage Act r/w.Sections 5(1), 6 of POCSO Act 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. 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 for more than 25 days, hence he may be



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 recorded under Section 164 of Cr.P.C.

5. From the perusal of the statement recorded under Section 164 of Cr.P.C it is seen 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 and stayed with him for two days in Chennai now both the families accepted the love affair and agreed for marriage after the victim 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 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.

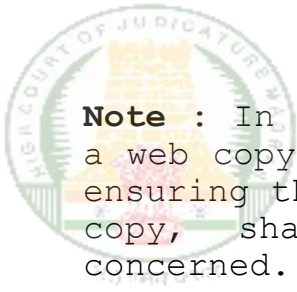
v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down 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/-
01/04/2021

/ 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.

WEB COPY

TO

- 1.THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
- 2.THE INSPECTOR OF POLICE,
KADAYAM POLICE STATION,
TIRUNELVELI DISTRICT.
- 3.THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.4994 of 2021
Date :01/04/2021

AAV
TK/PN/SAR.1/01.04.2021/3P/5C