



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

Date : 23/06/2021

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN
CRL OP(MD). No.7683 of 2021

WEB COPY

Jesuraj

... Petitioner/Sole Accused

Vs

State Represented by
The Inspector of Police,
All Women Police Station,
Virudhunagar,
Virudhunagar District.
Crime No.11 of 2020.

... Respondent/Complainant

For Petitioner : Mr.Thiruvadi Kumar.A.,
Advocate.

For Respondent : Mr.R.M.Anbu Nithi,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.11 of 2020 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner is in custody from 25.12.2020 for the offences under Sections 5(1) r/w 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.11 of 2020 on the file of the respondent police. He seeks bail.

2. The case of the prosecution is that the defacto complainant is the mother of the victim girl and she is employed as coolie in a Mill. On 24.12.2020, at about 05.00 p.m, when the defacto complainant came to the house, after completion of her work, the victim girl was lying without taking any food and when the same was questioned, the victim girl told that on 22.12.2020, at about 10.00 a.m, she went to the petitioner's parotta stall on his invitation to drink coconut water. But, the petitioner committed the penetrative sexual assault upon the victim girl, who is the aged about 13 years. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that since he is in judicial custody from 25.12.2020, pre-trial detention is not required in this case. Based upon this ground, he seeks to grant of bail to the petitioner.



4. The learned Additional Public Prosecutor appearing on behalf of the respondent police would submit that serious allegation has been levelled against the petitioner. Hence, he opposed to grant bail to the petitioner.

5. Heard both sides.

6. It is seen that the earlier application was dismissed as withdrawn by the learned counsel for the petitioner on 19.05.2021. Later, this petition came to be filed and during the course of argument, the learned counsel for the petitioner submitted that right from the date of arrest, he is in custody for more than 150 days and pre-trial detention is not required. On that ground, he seeks bail to the petitioner.

7. The next point on the part of the petitioner is that there is a delay of two days in preferring the complaint. But, whether the delay affect the facts and circumstance of the case cannot be decided at this stage and this cannot be a ground for considering the bail. So, on this ground also, the petitioner is not entitled for bail.

8. Since this is a second bail application, the learned Additional Public Prosecutor was required to produce copy of the final report. I perused the entire material on record, it is seen that serious allegation has been made against the petitioner for having misbehaved with the tender child and there is also allegation to the effect that he committed penetrative sexual assault upon the child. Eventhough, the petitioner is in custody for more than 150 days, I am of the considered view that if he is released on bail, there is a chance to tamper the evidence and trial process.

9. So, I am of the considered view that this is not a fit case to enlarge the petitioner on bail by considering the detention period.

10. In view of the above, this Court is not inclined to grant bail to the petitioner.

11. In the result, this Criminal Original Petition is dismissed.

Sd/-
23/06/2021

/ 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.

TO

1. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VIRUDHUNAGAR, VIRUDHUNAGAR DISTRICT.
2. THE OFFICER INCHARGE,
DISTRICT JAIL, DINDIGUL.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.7683 of 2021
Date : 23/06/2021

VB/PN/SAR.III/01.07.2021/3P/4C