



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

Date : 15/06/2021

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD). No.7365 of 2021

Amjathkhan

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Aranthangi, Pudukottai District.
(Crime No.5 of 2021)

... Respondent/Complainant

For Petitioner : M/s.Lenin Kumar.T.,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

PRAYER :-

For Bail in crime No.5/2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner is arrayed as sole accused. He was arrested and remanded to Judicial Custody on 18.03.2021 for the offences punishable under Sections 5(n), 5(j) and 6(1) of Protection of Children from Sexual Offences Act, 2012 in Crime No.5 of 2021 on the file of the respondent police. He seeks bail.

2.The case of the prosecution is that the petitioner is the third husband of the de-facto complainant. The petitioner, de-facto complainant and her child, namely, the victim girl, aged about 14 years, were living together in the same house. The de-facto complainant noticed that her minor daughter's stomach was growing big. When she enquired, her daughter told that the petitioner had sexually misbehaved with her and as a result she got pregnant. The case came to be registered.



3.The learned counsel for the petitioner submitted that the petitioner is an innocent. In fact the victim is in love with another person. The petitioner is falsely implicated in this case at the instigation of the second husband of the de-facto complainant.

4.The learned Additional Public Prosecutor for the respondent submitted that investigation in this case is not completed, so far and no medical test was conducted on the victim and the accused.

5.It is seen that 164 of Cr.P.C., statement of the victim girl is not recorded and this is a case registered under the POCSO Act. The respondent police ought to have conducted medical examination immediately after the registration of the First Information Report and recorded 164 of Cr.P.C., statement of the witnesses.

6.Taking into considering the facts and circumstances of the case and the fact that no medical examination was conducted on the victim girl and the accused and also the fact that the respondent police has not done the investigation properly and also considering the seriousness of the allegation made against the petitioner, this Court is not inclined to grant bail to the petitioner. The respondent police is directed to take necessary steps to record the 164 of Cr.P.C., statement of the victim and DNA Test to find the paternity of the child.

7.In this view of the matter, this Criminal Original Petition is dismissed.

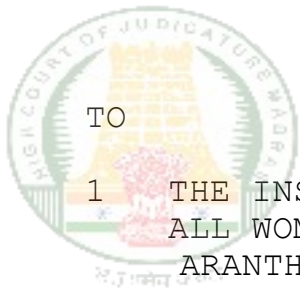
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15/06/2021

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

SJI

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,
ARANTHANGI, PUDUKOTTAI DISTRICT.

2. THE OFFICER INCHARGE,
DISTRICT JAIL, PUDUKOTTAI.

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

ORDER

IN

CRL OP(MD) No.7365 of 2021

Date :15/06/2021

KM:RSK:SAR3(22.06.2021) 3P 4C