



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 26/07/2021

WEB COPY

PRESENT

The Hon`ble Mr.Justice G.CHANDRASEKHARAN

CRL OP(MD) . No.9353 of 2021

Dinesh Kumar

... Petitioner/Accused No.1

Vs

The State rep.by,
The Inspector of Police,
***All Women Police Station,**
Thirupparamkundram,
Madurai District.
Crime No.409 of 2021.

... Respondent/Complainant

***(Amended as per order of this
Court dated 26/07/21 in
Crl.M.P(MD) No.4924 of 2021 in
Crl.OP(MD)No.9353 of 2021 by GCSJ)**

For Petitioner : Mr.M.Jegadeesh Pandian,
Advocate.

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

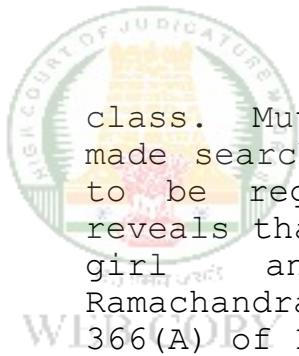
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-For Bail in Crime No.409 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested on 13.05.2021 for the offences punishable under Sections 366(A) of IPC and Sections 5(1), 6,16,17 of POCSO Act in Crime No.409 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that On 12.05.2021 at about 3.00 pm., the victim Janani informed the defacto complainant that she was going to her uncle's house for attending online class. After some time the brother's wife Muthupandi came to the house of the defacto complainant and asked about Janani. The defacto complainant told her that she came to her house to attend online



class. Muthupandi informed that she was not in her house. Then they made search and they could not locate her. Therefore the case came to be registered as Girl Missing. Subsequently investigation reveals that the first accused in this case had kidnapped the victim girl and had sexual relationship with her in his uncle Ramachandran's house. Hence the case has been altered to Sections 366(A) of IPC and Sections 5(1), 6, 16, 17 of POCSO Act.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is in judicial custody from 13.05.2021. He would further submit that it is a case of love affair between the petitioner and the victim, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent opposed the bail petition on the ground that the victim girl did not complete 15 years and she was studying 10th standard at the time of incident. Medical examination of the victim, accused is also over. Further 164 Cr.P.C statement of the victim is also recorded.

5. Perusal of the 164 Cr.P.C statement shows the petitioner is her friend's brother. The petitioner befriended her and then took her to his uncle's house and had sexual relationship with her against her wish. Medical examination of the victim, accused is also over. Further 164 Cr.P.C statement of the victim is also recorded.

6. Taking note of the fact and circumstances of the case and also the fact that it is a case of love affair between two teenagers who were said to be in love with each other and the fact that the petitioner has taken the daughter of the defacto complainant from the lawful custody of her parents, had sexual relationship with her, and the fact that the petitioner is in judicial custody from 13.05.2021 and that substantial part of the investigation is completed, this Court is inclined to grant bail to the petitioner

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 Special District Judge for POCSO Act Cases, Madurai and on further condition that:

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 am., until further orders.



[c] the petitioner shall not abscond either during investigation or trial.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

WEB COPY [e] 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]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

26/07/2021

/ 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 SPECIAL DISTRICT JUDGE FOR POCSO ACT CASES,
MADURAI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
- 3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUPPARAMKUNDRAM, MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.9353 of 2021

Date :26/07/2021

AAV

MK/JC/SAR.III/26.07.2021/3P/5C

<https://hcservices.ecourts.gov.in/hcservices/>