



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 04/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) . No.10570 of 2021

M.Elavarasan

... Petitioners/Sole Accused

Vs

The State Represented by
Inspector of Police,
All Women Police Station,
Thallakulam,
Madurai City.
Crime No.19 of 2021

... Respondent/Complainant

For Petitioner : Mr.Muthu Vijaya Pandian,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Government Advocate (Crl.Side)

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

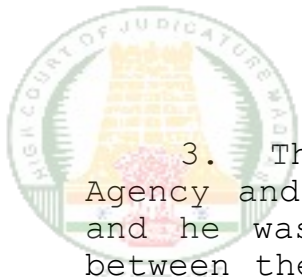
PRAYER :-

For Bail in Crime No.19 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 27.06.2021 for the offence punishable under Sections 14(2) and 15(1) of POCSO Act and Section 67B of Information Technology Act, in Crime No.19 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner is said to have morphed the photograph of the defacto complainant's daughter and sent the same to the victim child through Whatsapp.



3. The defacto complainant claims that he is running a Travel Agency and the petitioner used to book tickets through his Agency and he was having some dues, due to which, there was a dispute between them. Consequently, the petitioner is said to have morphed the photograph of his daughter, aged about 9 years old and sent the same through Whatsapp. Based on the complaint given by the defacto complainant, the case was registered.

4. The learned counsel for the petitioner would submit that the petitioner is an innocent and he is not involved any occurrence as alleged by the respondent Police. Originally, the defacto complainant received lump amount from the petitioner by promising him to arrange a job in abroad, but, the defacto complainant cheated the petitioner and hence, the petitioner lodged a complaint against the defacto complainant, against which, the defacto complainant has given a false complaint.

5. The learned Government Advocate(Crl.Side) would submit that the cell phone of the petitioner was recovered and sent to the Lab for analysis and the report is still awaited.

6. Considering the nature of offence, period of incarceration and also considering the fact that there is a dispute between the petitioner and the defacto complainant with regard to the money transaction, 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 Special Court under POCSO Act, Madurai and on further conditions 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 a.m. 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.

[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.



7. At this juncture, the learned counsel for the petitioner submits that the petitioner has been transferred from Ramanathapuram Sub Jail to Central Prison, Madurai. Hence, the Registry is directed to send a copy of this order to the Central Prison, Madurai.

sd/-
04/08/2021

/ 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 JUDGE,
SPECIAL COURT UNDER POSCO ACT,
MADURAI.
2. THE OFFICER INCHARGE,
SUB JAIL, RAMANATHAPURAM.
3. THE SUPERINTENDENT,
CENTRAL PRISON MADURAI.
4. THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THALLAKULAM,
MADURAI CITY.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to Mr. MUTHU VIJAYA PANDIAN, Advocate SR.No.5054 dated 04/08/2021.

ORDER
IN
CRL OP(MD) No.10570 of 2021
Date : 04/08/2021

SS/JM/SAR-III/04.08.2021 : 3P/7C