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

Date : 16.08.2021

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.11334 of 2021

M.Jesuraj ... Petitioner/Sole Accused

Vs

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

... Respondent/Complainant

For Petitioner : Mr.M.MICHAEL BHARATHI, Advocate

For Respondent : Mr.R.M.ANBUNITHI
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.

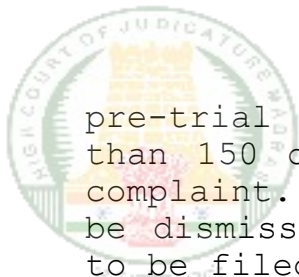
ORDER : The Court made the following order :-

The petitioner is in custody from 25.12.2020 for the offence under Sections 342, 376 (AB) of IPC and 5(m)(I) r/w 6 of POCSO Act in Crime No.11 of 2020 on the file of the respondent police. He seeks bail.

2. The petitioner is facing charges under Sections 342, 376 (AB) IPC r/w Section 5(m)(I)r/w 6 of POSCO Act. The earlier bail application filed by this petitioner came to be dismissed by this Court on 23.06.2021. The petitioner was arrested and remanded to judicial custody on 25.12.2020.

3. The learned counsel for the petitioner would submit that the

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



pre-trial detention is not required and he is in custody for more than 150 days. There was a delay of three days in preferring the complaint. Those things were rejected by this Court and it came to be dismissed on 25.06.2021. Subsequent to that, this petition came to be filed.

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4. The learned counsel appearing for the petitioner would rely upon the judgment of the Hon'ble Supreme Court in the case of **SANJAY CHANDRA vs. CENTRAL BUREAU OF INVESTIGATION [(2012)1 SCC (CRI) 26] and DATARAM SINGH VS. STATE OF UTTAR PRADESH AND ANOTHER [(2018) 1SCC (CRI) 675]**. He would further submit that parameters for deciding the pre-trial bail applications are entirely different and in this particular case, there is no question of tampering with the evidence. So, on that ground, he seeks bail.

5. But, on reading of the complaint as well as the final report, shows that serious allegation of penetrative sexual assault has been made against this petitioner and the victim is aged about 13 years. The petitioner is aged about 58 years. But, on going through the allegations as mentioned above, it shows that if the petitioner is released on bail, there is a possibility of tampering with the evidence and the trial proceedings may be hampered. Even though a strenuous attempt has been made by the learned counsel appearing for the petitioner to the effect that the stringent condition may be imposed upon the petitioner to report before the concerned Police, even thrice a day. Those things cannot be taken into consideration at this stage. When serious allegation of penetrative sexual assault has been made against this petitioner, unless and until a strong ground has been made out, he is not entitled for bail. So, on this ground, this Court does not find any change of circumstances. Accordingly, this Criminal Original Petition stands dismissed.

6. But, however, a liberty is granted to the petitioner to approach the trial Court in future seeking bail depending upon the circumstances. The petitioner need not approach this Court once again because earlier bail applications have been dismissed by this Court.

sd/-
16/08/2021

/ 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 SUPERINTENDENT
CENTRAL PRISON, MADURAI.
- 2.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VIRUDHUNAGAR.
- 3.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to M/S.MICHAEL BHARATHI M Advocate SR.No.5459

ORDER

IN

CRL OP(MD) No.11334 of 2021

Date :16/08/2021

SA/VR/SAR.2/19.08.2021/3P/5C