



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

Date : 17/08/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD). No.11622 of 2021

WEB COPY

P.Gurusamy

... Petitioner/Sole Accused

Vs

The State rep by
The Inspector of Police,
All Women Police Station,
Tirumangalam Police Station,
Madurai District.
Cr.No.08 of 2020.

... Respondent/Complainant

For Petitioner : Mr.Vivek Kumar.M
Advocate.

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

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

PRAYER :-

For bail in Cr.No.08 of 2020 on the file of the respondent police

ORDER : The Court made the following order :-

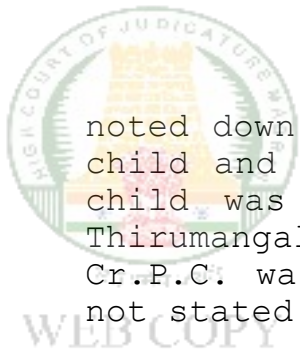
The petitioner/sole accused, who was arrested on 29.05.2021, for the offences punishable under Sections 5(m) and 6 of POCSO Act, in Crime No.8 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 28.05.2020, at about 2.30 p.m. the petitioner took the victim child inside his house, gave her some sweets and committed penetrative assault as against the victim child. On the complaint of the mother of the victim child, a case was registered on 29.05.2020.

3. The learned counsel for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case.

4. The learned Government Advocate(Crl.Side) submits that the investigation has been completed and final report has also been filed and it was taken on file in Spl.S.C.No.30 of 2020.

5. In this case, the victim child was produced before the Doctor for medical examination on 29.05.2020. The Doctor has not



noted down any external injuries anywhere in the body of the victim child and hymen was intact at the time of examination. The victim child was also produced before the learned Judicial Magistrate, Thirumangalam and the statement of the victim girl under Section 164 Cr.P.C. was also recorded. In her statement, the victim child has not stated about any penetrative assault by the petitioner.

5. Considering the fact that the investigation was over and final report has also been filed and it was taken on file in Spl.S.C.No.30 of 2020, the period of incarceration and also the fact that there is no material available to attract the offence under Sections 5(m) and 6 of POCSO Act, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the Criminal Original Petition is ordered. The petitioner is directed 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 Sessions Judge (Special Court for POCSO Act cases), 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]**.

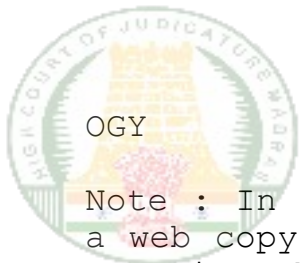
[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

Sd/-
17/08/2021

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

ORDER

IN

CRL OP (MD) No.11622 of 2021

Date : 17/08/2021

VB/JC/SAR.I/18.08.2021/3P/5C