



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

Date : 06/09/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.12325 of 2021

Gurumoorthy ... Petitioner/Sole Accused

Vs

The State Rep.by
The Inspector of Police,
Natchiyarkoil Police Station,
Thanjavur District.
Crime No.951 of 2021.

... Respondent/Complainant

For Petitioner : Mr.B.Jameel Arasu,
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.951 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested on 23.07.2021, for the offence punishable under Sections 294(b) and 307 IPC, in Crime No.951 of 2021 on the file of the respondent police, seeks bail.

2. The petitioner and the defacto complainant's husband are close friends. On 23.07.2021, at about 6.30 p.m., when the defacto complainant's husband went to the petitioner's house for the purpose of consuming liquor, the petitioner insisted him to have homosex and when the same was refused by him, the petitioner attacked him with aruval and caused injuries.

3. The learned counsel for the petitioner submits that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. However, he is languishing in Jail from 23.07.2021. Hence, he prayed for grant of bail. He further submits that the petitioner has also filed an undertaking affidavit attested by the Jailor, Borstal School and District Jail, Pudukkottai, before the Court, that he will not indulge in any offence in future.



4. The learned Government Advocate(Crl.Side) appearing for the respondent opposed for grant of bail on the ground that the investigation is yet to be completed. He further submits that the offence under Section 377 IPC has also been included in this case. He fairly submits that the petitioner is not having any antecedent.

5. Considering the facts and circumstances of the case, the nature of allegation levelled against the petitioner, the period of incarceration, the undertaking affidavit attested by the Jailor, Borstal School and District Jail, Pudukkottai and filed before this Court and also the antecedent of the petitioner, this Court is inclined to grant bail to the petitioner.

6. Accordingly, this 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 Judicial Magistrate No.II, Kumbakkonam, Thanjavur District, 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/-
06/09/2021

/ 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 JUDICIAL MAGISTRATE NO.II, KUMBAKKONAM,
THANJAVUR DISTRICT.
2. DO-THROUGH THE CHIEF JUDICIAL MAGISTRATE,
THANJAVUR DISTRICT AT KUMBAKKONAM.
3. THE OFFICER INCHARGE,
BORSTAL SCHOOL AND DISTRICT JAIL,
PUDUKKOTTAI.
4. THE INSPECTOR OF POLICE,
NATCHIYARKOIL POLICE STATION,
THANJAVUR DISTRICT.
5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.12325 of 2021

Date :06/09/2021

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MS/VR/SAR-1/06.09.2021/3P.6C