



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 08/10/2021
PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.15521 of 2021

Mahendran ... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Sankarankovil.
In Crime No.10 of 2021.

... Respondent/Complainant

For Petitioner : Mr.V.Kathirvelu, Senior Counsel
for Mr.K.Prabhu
Advocate.

For Respondent : Mr.A.Thiruvadi Kumar,
Additional Public Prosecutor

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

PRAYER :-For Bail in Crime No.10 of 2021 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who surrendered on 20.09.2021 in connection with the case in Cr.No.10 of 2021 registered for the offence punishable under Section 7 r/w. 8 of POCSO Act and Sections 294(b) and 506(ii) of IPC, seeks bail.

2. The case of the prosecution is that the defacto complainant and her husband are coolie workers. On 16.06.2021, when they went for work, her daughter, who is aged about 15 years, was on her way to her grandmother's house. At that time, the petitioner, who is residing in the said area, pulled her and touched her breasts. Thereafter, the victim girl ran to her grandmother's house. When her grandmother questioned the petitioner, he threatened her with dire consequences. Hence, the case.

3. The learned Senior Counsel appearing for the petitioner submits that the petitioner has already filed a petition for anticipatory bail before this Court in Crl.O.P.(MD)No. 9506 of 2021. Considering the bad antecedent of the petitioner, this Court, vide order dated 11.08.2021 dismissed the anticipatory bail petition. The petitioner surrendered on 20.09.2021.



4. The learned Senior Counsel appearing for the petitioner further submits that the petitioner is willing to file an undertaking affidavit before the respondent Police and he will furnish sureties from respectable persons.

5. The learned Additional Public Prosecutor submits that the petitioner is involved in six other cases. Therefore, the earlier anticipatory bail petition was dismissed by this Court. He further submits that the investigation is yet to be completed.

6. Considering the facts and circumstances of the case, the voluntary surrender of the petitioner, the period of incarceration and his readiness to file an undertaking affidavit, this Court is inclined to grant bail to the petitioner, however, with stringent conditions.

7. Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act cases, Tirunelveli and on further conditions that:

[a] the persons who are giving sureties should be respectable persons in their locality, either Government Servants or elected people representatives or the persons who are having permanent business establishments and the sureties shall file an affidavit before the trial Court, by ensuring that the petitioner will not indulge in any other offence in future and he will be available for the entire trial;

[b] the sureties shall affix their photographs and left thumb impression in the surety bond and the Judge may obtain a copy of their Aadhaar card or bank pass book to ensure their identity;

[c] the petitioner shall not misuse the liberty granted to him by this Court and if the petitioner is involved in any other offence, the respondent police shall inform the same to the concerned Court. The concerned Court shall impound the sureties amount;

[d] the petitioner shall report before the respondent Police daily at 10.30 a.m. until further orders;

[e] the petitioner shall file an undertaking affidavit before the respondent Police as well as before the trial Court that he will not indulge in any other offence in future;

[f] the petitioner shall not abscond during the trial;



[g] the petitioner shall not tamper with the evidence or witness during trial;

[h] On breach of any of the aforesaid conditions, the learned Judge/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 is released on bail by the learned Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

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

sd/-

08/10/2021

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/ /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,
TIRUNELVELI.

2 THE SUPERINTENDENT,
CENTRAL JAIL, PALAYANKOTTAI.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANKARANKOVIL.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.K.PRABHU, Advocate (SR-7132[I] dated 08/10/2021)

ORDER

IN

CRL OP(MD) No.15521 of 2021

Date :08/10/2021

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