



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 28/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD). No.16514 of 2021

Madasamy,

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Palayamkottai,
Tirunelveli District.
Cr.No. 19 of 2021.

... Respondent/Complainant

For Petitioner : Mr.P.M.Vishnuvarthanan,
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.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 20.09.2021 for the offence under Sections 366 IPC, Section 9 of Prohibition of Child Marriage Act, 2006 and Sections 5(1) and 6 of Protection of Children from Sexual Offences Act, 2012, 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 who is aged about 19 years had married the victim girl, who is aged about 17 years and had physical relationship with her. Hence, the complaint.

3.The learned counsel appearing for the petitioner submits that the petitioner and the victim girl loved each other and they are relatives. As per 164 Cr.P.C. statement of the victim, no marriage took place. He further submitted that the petitioner is in judicial custody since 20.09.2021 and hence, he seeks for grant of bail.



4. The learned Additional Public Prosecutor appearing for the respondent police has furnished the statement recorded from the victim under Section 164 Cr.P.C, in which, she has stated that both are relatives and no marriage took place between them.

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5. Considering the facts and circumstances of the case and the period of incarceration and also the fact that no marriage took place between the petitioner and the victim girl, this Court is inclined to grant bail to the petitioner.

6. 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.25,000/- (Rupees twenty five thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Court for Exclusive trial of Cases under POCSO Act, Tirunelveli and on further conditions that:

[a] 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.

[b] the petitioner shall appear before the respondent police daily at 10.30 a.m until further orders.

[c] the petitioner shall not tamper with the evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond 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 229-A IPC.

sd/-

28/10/2021

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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 FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, TIRUNELVELI

2 THE INSPECTOR OF POLICE,
PALAYAMKOTTAI,
TIRUNELVELI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL JAIL, TIRUNELVELI.

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

+1. CC to M/S.VISHNUVARTHANAN P.M. Advocate SR.No.7616

ORDER
IN
CRL OP(MD) No.16514 of 2021
Date :28/10/2021

MK/SKN/SAR 3/28.10.2021/3P-6C