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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Dated: 25/03/2022

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Crl.OP(MD)No.3968 of 2022

Raju

... Petitioner/Sole Accused

Vs.

The State rep. By
The Inspector of Police,
All Women Police Station,
Musiri, Trichy District.
(Crime No.9 of 2021)

... Respondent/Complainant

For Petitioner : Mr.T.Ramasamy, Advocate

For Respondent : Mr.SS.Madhavan
Government Advocate (Crl. Side)

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

PRAYER :-

For Bail in Crime No.9 of 2021 on the file of the Respondent Police.

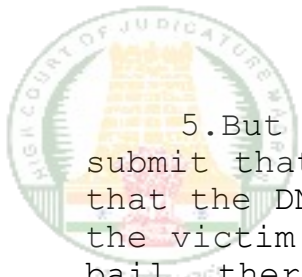
ORDER : The Court made the following order :-

The petitioner, who is arrayed as sole accused, was arrested, on 26/05/2021 and remanded to judicial custody for the alleged offence punishable under section 376(2)(f),(j),(k),(l) IPC, in Crime No.9 of 2021 on the file of the respondent police, seeks bail.

2.The petitioner is facing the charges for the offence section 376(2),(f),(j),(k),(l) IPC.

3.Heard both sides.

4.This is the 3rd bail application filed by the petitioner on the ground that DNA report has not received so far and the final report has not been filed before the concerned court. It is further submitted that pre-trial incarceration may violate the fundamental right guaranteed under Article 21 of the Constitution of India.



5. But the learned Government Advocate (Criminal side), would submit that there is a oral statement from the concerned Department that the DNA profiling of this petitioner tallies with the foetus of the victim girl. According to him, if the petitioner is released on bail, there is every possibility of tampering the evidence, since the petitioner has to go to the house, where the victim girl has been kept.

6. According to the respondent, the Investigating Officer, who is present before this court that the victim girl is a disabled person, both physically and mentally and on the basis of the complaint given by the de-facto complainant, who is the sister of the victim, this case has been registered.

7. Now the learned counsel appearing for the petitioner would submit that the de-facto complainant is also ready to give evidence or file an affidavit before the court that this petitioner is not involved in the above said occurrence. But however the only report that can be made available to the court is the scientific examination of the foetus of the victim girl. According to the learned Government Advocate (Criminal side), it also tallies with the petitioner.

8. In the facts and circumstances of this case, the learned counsel appearing for the petitioner would submit that considering the period of incarceration, any condition may be imposed upon the petitioner to stay away from the village.

9. But however, considering the fact that victim is a disabled person, both mentally and physically, no one is coming to give evidence against this petitioner and if the petitioner is released on bail, there is every possibility of absconding him. But only the scientific evidence that is available must be made ready and submitted before the concerned trial court. The concerned trial court without waiting for the DNA report may commence the trial process. The respondent police is also submitted that within 25 days, the report will be submitted before the trial court. So without waiting for the DNA test report, the trial may commence. The learned Government Advocate (Criminal side) would submit that the next date of hearing is 05/04/2022. So, I am of the considered view that this court is not inclined to grant bail to the petitioner and accordingly, this petition is **dismissed**. But however, there shall be a direction to the concerned trial Court to expedite the trial process and complete the same within a period of three months from the date of receipt of a copy of this order.

Sd/-
25/03/2022

/ TRUE COPY /

/07/2022

Sub-Assistant Registrar (C.S.IV)
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.

WEB COPY

TO

1. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MUSIRI, TRICHY DISTRICT.
2. THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY,
TRICHY DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.3968 of 2022

Date :25/03/2022

SP/SVR/SAR IV/01/07/2022/3P/4C