



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 17/03/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice **K.MURALI SHANKAR**

CRL OP(MD) . No.4091 of 2022

T.Swaminathan

... Petitioner/Sole Accused

Vs

State represented by its
The Inspector of Police,
All Women Police Station,
Thiruvaiyaru.
(Crime No.17 of 2021).

... Respondent/Complainant

For Petitioner : M/s.A.Zubaitha Banu,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

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

PRAYER :-

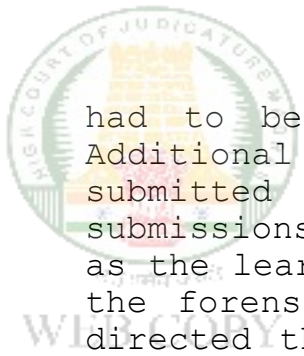
For Bail in Crime No.17 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/accused, who was arrested and remanded to judicial custody on 15.12.2021 for the offences punishable under Sections 5(i), 5(j)(ii) and 6 of Protection of Child from Sexual Offences Act, 2012, in Crime No.17 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner had committed aggravated penetrative sexual assault on the defacto complainant's daughter. Hence, the complaint.

3.When the matter was taken up for hearing on 09.03.2022, the learned counsel for the petitioner submitted that the learned Sessions Judge, considering the submission made by the learned Special Public Prosecutor that FTA card has already been received from the forensic department, but the blood sample of the accused



had to be taken, has dismissed the petition, that the learned Additional Public Prosecutor before this Court in the last hearing submitted that FTA card has not been received. Considering the submissions made by the learned counsel for the petitioner as well as the learned Additional Public Prosecutor, this Court has directed the forensic department to issue FTA card without delay and also directed the respondent police to get FTA card and take necessary steps for taking blood sample of the accused at the earliest on or before 16.03.2022.

4. When the matter is taken up for hearing today, the learned Additional Public Prosecutor, on instructions, would submit that the respondent police has produced the copy of this Court order dated 09.03.2022 before the concerned Court yesterday. This Court is at loss to understand why the order copy was produced before the concerned Court, instead of producing before the forensic lab for getting FTA card as directed by this Court.

5. The learned counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. She would further submit that the petitioner is in judicial custody for more than 91 days.

6. As already pointed out, the trial Court has dismissed the application since the blood sample of the accused was not yet taken. Now, the learned counsel for the petitioner would submit that the petitioner undertakes to co-operate for the medical examination and for further investigation.

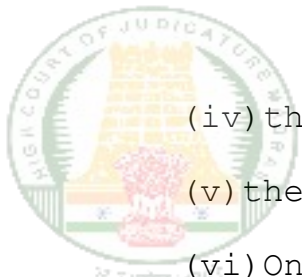
7. Considering the above facts and also the facts that the petitioner is in judicial custody from 15.12.2021 and that the petitioner is not having any bad antecedents, this Court is inclined to grant bail to the petitioner subject to the following conditions:

8. Accordingly, 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 Cases under POCSO Act, Thanjavur.

(i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii) the petitioner is directed to co-operate with the respondent police for getting blood samples as and when directed;

(iii) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;



(iv) the petitioner shall not tamper with evidence or witness;

(v) the petitioner shall not abscond during trial;

(vi) 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]***.

(vii) If the accused / petitioner thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

17/03/2022

/ TRUE COPY /

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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 SPECIAL COURT FOR EXCLUSIVE
TRIAL CASES UNDER POCSO ACT, THANJAVUR.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, THIRUVAIYARU.
- 3 THE OFFICER INCHARGE,
DISTRICT PRISON, PUDUKKOTTAI.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.4091 of 2022

Date : 17/03/2022

CSM

MK/PN/SAR.IV/17.03.2022/3P/5C