



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 08/04/2022
PRESENT

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

CRL OP(MD) . No.6524 of 2022

Periyamaruthu ... Petitioner/Sole Accused

Vs

State represented by
The Inspector of Police,
Alwarkuruchi Police Station, Tirunelveli District.
(Crime No.287 of 2021) ... Respondent/ Complainant

For Petitioner : Mr.B.Santhanam Rajeshkumar,
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.287 of 2021 on the file of the Respondent Police.

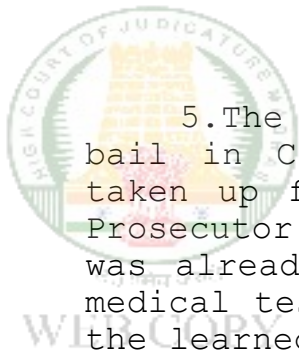
ORDER : The Court made the following order :-

The petitioner/accused, who was arrested and remanded to judicial custody on 06.03.2022 for the offences punishable under Section Girl Missing altered into Sections 366 IPC r/w 9 of the Prohibition of Child Marriage Act and Section 4 of POCSO Act, 2012, in Crime No.287 of 2021, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner has compelled the victim girl to marry him and he had also physical relationship with her. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the victim girl is aged about 17 years 11 months and that they loved each other and they also got married.

4.The learned Additional Public Prosecutor would submit that as per the 12th certificate, the victim's date of birth is 05.04.2003. He would further submit that in the statement recorded under Section 164 Cr.P.C., she has not stated anything regarding the petitioner.



5.The petitioner has earlier filed a petition for anticipatory bail in Crl.O.P.(MD)No.18718 of 2021 and when that petition was taken up for hearing on 14.02.2022, the learned Additional Public Prosecutor submitted that the medical examination of the victim girl was already over and that since the petitioner is absconding, the medical test is not yet taken for the petitioner. At that juncture, the learned counsel for the petitioner submitted that the petitioner is ready to undergo the medical test and for that purpose he is also ready to appear before the respondent police.

6.It is not in dispute that the above said application for anticipatory bail has been filed on 24.04.2021 and the same was pending till 28.03.2022. This Court has adjourned the said petition in Crl.O.P.(MD)No.18718 of 2021, after recording the submission made by the learned counsel for the petitioner that the petitioner is ready to undergo the medical test and at that time, it was represented that the respondent police, without having knowledge about the stage of the above petition and the reason for adjourning the matter, arrested the petitioner. Thereafter, the petitioner has filed an application for bail before the concerned Trial Court and the same was pending.

7.The learned Additional Public Prosecutor submitted that the learned Trial Judge, on the basis of the requisition submitted by the prosecution, has taken necessary steps for sending the petitioner to medical test and that the medical examination of the petitioner was over. He further submitted that since the application for anticipatory bail was pending before this Court, the learned Trial Judge has expressed his inability to proceed with the bail application and that therefore, necessary direction may be given to the learned Trial Judge. This Court, vide order dated 28.03.2022, directed the learned trial Judge to pass an orders in the bail application pending before the said Court and dismiss the petition for anticipatory bail as withdrawn.

8.The learned Additional Public Prosecutor would further submit that the order of this Court in Crl.O.P.(MD)No.18718 of 2021 dated 28.03.2022 was not brought to the notice of the learned Sessions Judge and the learned Sessions Judge has dismissed the application of the petitioner.

9.Considering the above facts and circumstances and also the facts that medical examinations are already over, that investigation is almost completed except receiving the medical test reports 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:

10.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 Sessions Judge, Special Court for POCSO



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

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

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

(iv)the petitioner shall not abscond during trial;

(v)On breach of any of the aforesaid conditions, the learned Sessions 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 released on bail by the learned Sessions 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]**.

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

sd/-

08/04/2022

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08/04/2022

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 INSPECTOR OF POLICE
ALWARKURUCHI POLICE STATION, TIRUNELVELI DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.6524 of 2022

Date :08/04/2022

CSM

<https://hmcpcr.org.in/Services/4.2022/3P/5C>