



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 12.07.2022
PRESENT

WEB COPY

The Hon`ble Mr.Justice K.MURALI SHANKAR

CRL OP(MD). No.12392 of 2022

Esakkimuthu

... Petitioner/Sole Accused

Vs

The State represented by
The Inspector of Police,
All Women Police Station,
Kanyakumari,
Kanyakumari District.
(Crime No.11 of 2022).

... Respondent/Complainant

For Petitioner : Mr.S.PALANI VELAYUTHAM,
Advocate.

For Respondent : Mr.R.MEENAKSHI SUNDARAM,
Additional Public Prosecutor.

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

PRAYER :- For Bail in Crime No.11 of 2022 on the file of the Respondent Police.

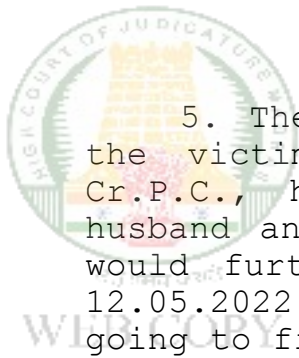
ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 15.04.2022 for the offences punishable under Sections 5(n), 5(l), 5(j)(ii) and 6 of POCSO Act, in Crime No.11 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, who is the husband of the victim girl's sister, had committed sexual assault upon the victim girl and as a consequence, the victim girl became pregnant. Based upon which, the present case came to be registered against the petitioner.

3. No doubt, the earlier application for bail filed by the petitioner in Crl.O.P.(MD)No.9260 of 2022 was dismissed by this Court vide order dated 09.06.2022.

4. The learned counsel for the petitioner would submit that the petitioner is in judicial custody from 15.04.2022, that there existed love affairs between the petitioner and the victim girl and that the victim girl has now delivered a child.



5. The learned Additional Public Prosecutor would submit at the victim girl, in her statement recorded under Section 164 Cr.P.C., has stated that she had already married her sister's husband and that they were not having any issue between them. He would further submit that the victim girl delivered a child on 12.05.2022 and that investigation is almost completed and they are going to file a charge sheet shortly.

6. Considering the above facts and circumstances of the case and also the facts that the petitioner is in judicial custody from 15.04.2022, that investigation is almost completed as stated by the learned Additional Public Prosecutor 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:

7. 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 of Cases under POCSO Act, Kanyakumari at Nagercoil.

(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., for a period of one month and thereafter as and when required for interrogation;

(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/-

12/07/2022

/ TRUE COPY /

12/07/2022

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 JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, KANYAKUMARI DISTRICT AT NAGERCOIL.
- 2 THE OFFICER INCHARGE
DISTRICT JAIL, NAGERCOIL,
KANYAKUMARI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KANYAKUMARI, KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER**IN**

CRL OP(MD) No.12392 of 2022
Date :12/07/2022

SA/VR/SAR.1/12.07.2022/3P/5C