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CRL OP(MD). N



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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20.07.2022

PRESENT

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

CRL OP(MD). No.13076 of 2022

Marimuthu

...Petitioner/ Sole Accused

Vs

The State represented by its
The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.
(Crime No.5 of 2022)

... Respondent/ Complainant

For Petitioner : Mr.C.Susi Kumar,
Advocate.

For Respondent : Mr.B.Nambi Selvan,
Additional Public Prosecutor.

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

PRAYER :-For Bail in Crime No.5 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 22.04.2022 for the offences punishable under Sections 366 and 376(3) of IPC, Sections 5(1), 5(j)(ii) r/w 6 of Protection of Children from Sexual Offences (POCSO) Act, 2012, and Section 9 of Child Marriage Restraint Act, in Crime No.5 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, who is aged about 28 years, married the victim girl, who is aged about 13 years and they had sexual intercourse, due to that, the victim girl became pregnant. Hence, the complaint.

3. Earlier two applications filed by the petitioner in CrI.O.P. (MD) Nos.10294 and 11184 of 2022 were dismissed as withdrawn by this Court vide orders dated 10.06.2022 and 28.06.2022.

<https://www.mhctn.gov.in/jdis>



4. The learned counsel for the petitioner would submit that there existed love affairs between the petitioner and the victim girl and they were living together for some time and that the complaint was lodged by the Health Inspector, when the victim girl visited hospital for her pregnancy related problems. He would further submit that the victim girl is in advanced stage of pregnancy.

5. The learned Additional Public Prosecutor would submit that the victim girl is aged 13 years at the time of the alleged occurrence and that investigation has already been completed and charge sheet has been filed and the case was taken on file in Spl.S.C.No.71 of 2022 and the same is pending on the file of the learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, 2012, Srivilliputtur.

6. Considering the above facts and circumstances and also the facts that the petitioner is in judicial custody from 22.04.2022, that investigation has already been completed and charge sheet has been filed and the case was taken on file in Spl.S.C.No.71 of 2022 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 Sessions Judge/Special Judge for Special Court for exclusive trial of cases under POCSO Act, 2012, Virudhunagar District at Srivilliputtur.

(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 trial Court at 10.30 a.m., on all working days 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/-

20/07/2022

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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 SESSIONS JUDGE,
SPECIAL JUDGE FOR SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT, 2012,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, RAJAPALAYAM,
VIRUDHUNAGAR DISTRICT.
- 3 THE OFFICER INCHARGE,
SUB JAIL, SRIVILLIPUTHUR.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER

IN

CRL OP(MD) No.13076 of 2022

Date : 20/07/2022

CSM

MK/VR/SAR.I/20.07.2022/3P/5C