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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 25/08/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Cr1.OP(MD)No.13358 of 2022

Esakkimuthu : Petitioner/Accused Rank
Not known

Vs.

The State Rep. By
The Inspector of Police,
Shencottai Police Station,
Thirunelveli District.
(Crime No.204 of 2022) : Respondent/Complainant

For Petitioner : Mr.M.Karthikeya Venkita
Chalapathy

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor

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

PRAYER:-C-58B.For Bail in Crime No.204 of 2022 on the
file of the Respondent Police.



ORDER : The Court made the following order:-

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The petitioner, who is arrayed as an accused was arrested, on 15/06/2022 and remanded to judicial custody for the alleged offences punishable under sections 366, 376 IPC and section 6 r/w 5(1) of Protection of Children from Sexual Offences Act, 2012, in Crime No.204 of 2022, seeks bail.

2.The case of the prosecution is that the de-facto complainant is the mother of the victim girl. She lodged a complaint stating that her daughter was aged about 17 years and she was born, on 16/11/2005. When she was in the house, on 13/06/2022, the de-facto complainant and others persons were away from the house and attending a function and thereafter, she was found missing. Based upon the above said occurrence, the case was registered in Crime No.204 of 2022 under the caption 'girl missing'. During the course of investigation, the involvement of the petitioner came to light, so, the offence was altered to sections 366, 376 IPC and Section 6 r/w 5(1) of the POCSO Act. He was arrested and remanded to judicial custody and ever-since from the date of arrest, he is in custody.



3. Seeking bail, this petition came to be filed on the ground that there was love affair between the victim girl and the petitioner and only at her instance and with her consent, she was taken by the petitioner and except the above said love affair, there was no sexual assault.

4. But reading of the 164(3) Cr.P.C statement of the victim girl, it is seen that she was taken to various places by the petitioner, she went out of the house on her own accord in search of the petitioner. During stay, she was subjected to sexual assault. But however, she has stated that because of the unusual behaviour of her mother, she happened to leave the home.

5. Now whatever it may be, it is seen that the victim girl was having love affair with the petitioner for about 2 months prior to the date of occurrence. Utilizing the above said affair, she was subjected to sexual assault. She was aged about 16 + at the time of the occurrence. So the contention on the part of the petitioner that it is purely love affair cannot be taken into account.



6. But reading of the CD file shows that major portion of the investigation is over and medical examination of the petitioner as well as the victim girl is also over.

7. Considering the above facts and circumstances of this case and also considering the period of incarceration of the petitioner, this court is inclined to grant bail to the petitioner with certain conditions. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act Cases, Thirunelveli and on further condition that the petitioner shall report before the respondent daily at 10.30 am until further orders.

25/08/2022

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Inspector of Police,
Shencottai Police Station,
Thirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Central Prison,
Palayamkottai.



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G. ILANGO VAN, J

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