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CRL OP(MD). N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/09/2022

PRESENT

The Hon`ble Mrs.Justice R.THARANI

CRL OP(MD). No.17288 of 2022

Malathi

... Petitioner/Accused No.2

Vs.

The State rep.by,
The Inspector of Police,
All Women Police Station,
Kumbakonam,
Thanjavur District.
Crime No.22 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Indrachithu T, Advocate.

For Respondent : Mr.M.Muthumanikkam,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

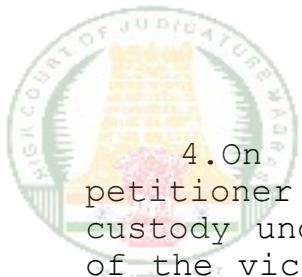
PRAYER :-For Anticipatory Bail in Crime No.22 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 11(4) r/w 12, 5(1), 6 of POCSO Act, 2012 and Section 506(i) IPC, in Crime No.22 of 2022, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the first accused was in love with the victim and he had physical relationship with her. On 06.06.2022, the first accused insisted the defacto complainant to give her daughter in marriage and threatened her. Hence, the case.

3.On the side of the petitioner, it is stated that petitioner is innocent person and she has not committed any offence as alleged by the prosecution. A1 was already released on bail in this case. Based on the confession of A1, this petitioner was impleaded in this case. Hence, prays to release her on anticipatory bail.



4. On the side of the prosecution, it is stated that the petitioner is none other than the mother of A1. A1 is still in custody under the Goondas Act. At the time of occurrence, the age of the victim was only 15 years. As per the 164 Cr.P.C. statement of the victim, the first accused had sexually assaulted the victim and against her wish, had physical relationship, only with the help of this petitioner. Earlier petition filed by the petitioner in Crl.O.P.(MD)No.16387 of 2022 was dismissed by this Court, on 12.09.2022 and this is the second bail petition and prayed the petition to be dismissed.

5. It is seen that the prime accused-A1 was already released on bail in this case. Considering the overt act against this petitioner and considering the fact that the prosecution has not taken any steps to arrest the petitioner so far, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, this Petition is allowed and the petitioner is ordered to be released on bail in the event of her arrest or on her appearance, before the Special Court for Exclusive Trial of Cases under POCSO Act, Thanjavur, Thanjavur District, within a period of fifteen days from the date of receipt of a copy of this order, on condition that the petitioner shall execute 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 respondent Police or to the Police Officer, who intends to arrest or to the satisfaction of the learned Magistrate concerned and on further conditions that:

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

(b) the petitioner shall report before the respondent police daily at 10.30 am until further orders;

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall be present before the Court on hearing dates and before the respondent police as and when required;

(e) 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]**; and;



(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-

29/09/2022

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT,
THANJAVUR, THANJAVUR DISTRICT.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, KUMBAKONAM,
THANJAVUR DISTRICT.
- 3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.T.INDRACHITHU, Advocate (SR-10837[I] dated
30/09/2022)

ORDER

IN

CRL OP(MD) No.17288 of 2022

Date :29/09/2022

Ls

MK/GB/SAR.II/06.10.2022/3P/5C