

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/10/2022

PRESENT

The Hon`ble Mr.Justice A.A.NAKKIRAN

CRL OP(MD). No.18098 of 2022

Gajendran

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Kanyakumari,
Kanyakumari District.
(Cr No.12/2022).

... Respondent/Complainant

For Petitioner : M/s.Micheal Sebastin.B, Advocate.

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

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

PRAYER :-

For Bail in Cr No.12/2022 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 29.04.2022 for the offences punishable under Sections 5(1), 5(j)(ii) and 6 of POCSO Act and Section 366 IPC and Sections 9 and 10 of Prohibition of Child Marriage Act, 2006, in crime No.12 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner kidnapped the daughter of the de-facto complainant, who is aged about 13 years and forcibly sexual intercourse with her. Subsequently, a female child was born to her. Hence, the complaint.

3.The learned counsel for the petitioner would submit that this is the petitioner's second bail application and the earlier application was dismissed by this Court vide order dated 19.09.2022 in Crl.O.P.(MD)No.16731 of 2022. He would further submit there is a love affair between the petitioner and the victim girl and the investigation has already been completed and the charge sheet has

already been filed before the concerned Magistrate. The petitioner is in judicial custody from 29.04.2022, hence he may be released on bail.

4.The learned Government Advocate (Crl. side) strongly opposed this petition stating that the petitioner's earlier application was dismissed by this Court, dated 19.09.2022 on the ground that the DNA sample test is yet to be recovered. He would further submit that the investigation has been completed and the charge sheet has already been filed and the same is not taken on file.

5.Considering the facts and circumstances of the case and also considering the period of incarceration and also the fact that the investigation has been completed and the charge sheet has already been filed, this Court is inclined to grant bail to the petitioner on certain conditions.

6.Accordingly, this Criminal Original Petition is allowed and the petitioner is ordered to be released on bail, on 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 Special Court for Exclusive Trial of Cases under POCSO Act, Kanyakumari District.

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Special Court/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 on all hearing dates without fail;

(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 Special Court/concerned 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 Special Court/concerned court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

sd/-

12/10/2022

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12/10/2022

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,
KANYAKUMARI DISTRICT.
- 2 THE OFFICER INCHARGE, SUB JAIL, NAGERCOIL AT 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.

+1 CC to M/s.B.MICHEAL SEBASTIN, Advocate (SR-11241[I] dated
12/10/2022)

ORDER

IN

CRL OP(MD) No.18098 of 2022

Date :12/10/2022

SJI

RS/VR/SAR.(12.10.2022) 3P-6C