



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 20/10/2022

PRESENT

WEB COPY

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

CRL OP(MD) . No.18692 of 2022

P.Balamurugan

... Petitioner/Sole Accused

Vs

The State Rep. By,
The Inspector of Police,
All Women Police Station,
Thirumangalam.
Cr.No.28/2022.

... Respondent/Complainant

For Petitioner : M/s.Mohamed Rafi M,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

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

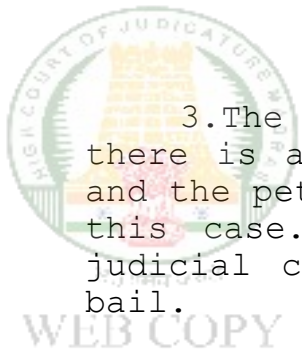
PRAYER :-

For Bail in Crime No.28/2022 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 07.09.2022 for the offences punishable under Section 9 of Child Marriage Act and Sections 5(1), 5(j)(i) and 6 of POCSO Act, in crime No.28 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner married a minor girl and had sexual intercourse with her. As a consequence, she became pregnant. During the medical checkup in the Government Rajaji Hospital, Madurai, the examining Doctor found her age and informed the same to the competent Officer. On the basis of the said information, the Social Welfare Officer enquired the victim and lodged the complainant as against the petitioner.



3.The learned counsel for the petitioner would submit that there is a love affair between the petitioner and the victim girl and the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is in judicial custody from 07.09.2022 and hence he may be released on bail.

4.The learned Additional Public Prosecutor strongly opposed this petition stating that the victim girl is aged about 16 years at the time occurrence. He would further submit that the statement of the victim girl under Section 164 of Cr.P.C. is also recorded and the major part of the investigation is almost over.

5.Considering the facts and circumstances of the case and also considering the period of incarceration and also the fact that the major part of the investigation is almost over, 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, Madurai.

(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 respondent police daily at 10.30 a.m., 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 Special Court/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 Special Court/Trial Court himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560].

sd/-
20/10/2022

/ TRUE COPY /

20/10/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



TO

1. THE SPECIAL JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
MADURAI.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUMANGALAM.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.MOHAMED RAFI, Advocate (SR-11725[I] dated
20/10/2022)

ORDER
IN
CRL OP(MD) No.18692 of 2022
Date :20/10/2022

SJI
USK/SBN/SAR- /20.10.2022/3P/6C