



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 01/02/2022

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PRESENT

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

Crl.OP(MD)No.20685 of 2021

Deepak

...Petitioner/Sole Accused

Vs.

State rep. By its
The Inspector of Police,
Tirnelveli Town Police Station,
Tirunelveli.
(Crime No.402 of 2021)

...Respondent/Complainant

For Petitioner : Mr.S.Sundarapandian, Advocate

For Respondent : Mr.SS.Madhavan
Government Advocate (Crl. side)

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

PRAYER :-

For Bail in Crime No.402 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order:-

The petitioner, who is arrayed as sole accused was arrested and remanded to judicial custody on 12.11.2021 for the offence punishable under section 366 IPC @ 366 IPC r/w section 6 of the Protection of Children From Sexual Offences Act, in Crime No.402 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that this petitioner is studying Diploma in Engineering 3rd Year at FX Polytechnic, Tharuvai. The petitioner kidnapped the victim girl to various places and had sexual intercourse with her, who was aged about only 15 years at the time of the alleged occurrence.

3.Based upon the complaint given by the de-facto complainant, originally the case has been registered under the caption for girl missing and during the course of investigation, it was found that



this petitioner only alleged to have kidnapped the victim girl, who was aged about 15 years at the time of the alleged occurrence and taken her to various places and had sexual intercourse and thereby committed the penetrative sexual assault and this petitioner was arrested and remanded to judicial custody on 12.11.2021.

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4.Earlier this petitioner moved bail application before the Special Court, Tiruvelveli in Crl.MP No.1978 of 2021 and that came to be dismissed on 13/12/2021 stating that the victim girl is aged about 15 years and when the victim girl was in the way from school on 20/09/2021, this petitioner took the victim girl to Chennai and from Chennai to Salem and Tirupur etc. So during the above said period of stay, the petitioner appears to have committed the penetrative sexual assault upon the victim girl. Noting the serious offence that this petitioner kidnapped the victim girl and against her consent had sexual intercourse, that petition came to be dismissed by the Special Judge, Tirunelveli.

5.Now the learned counsel appearing for the petitioner would submit that the petitioner is in custody for more than 45 days and it is purely a love affairs between the victim girl and the petitioner.

6.For the purpose of ascertaining the age of the victim girl, the learned Government Advocate (Criminal side) was requested to produce the document and he submitted only the statement recorded under section 164 Cr.P.C, which is available and the birth certificate of the victim girl is not secured and available.

7.The entire statement of the victim girl perused. From the perusal of the statement of the victim girl, it is seen that under the guise of love, she was taken to various places by the petitioner and had sexual intercourse. She narrated the entire events in a detailed manner, which shows that even though the victim girl was not really in love, because of persisting pressure, at the time, she went along with the petitioner and she was taken to various places under the guise of love affairs. Since the victim girl is aged 15 years at the time of occurrence, the contention put forth on the part of the petitioner cannot be accepted. It is a clear case of kidnapping and penetrative sexual assault without the consent of the victim girl.

8.Even though the petitioner is in custody for more than 45, days, the investigation is at the preliminary stage and if the petitioner is released on bail there is every likelihood of tampering the witnesses, the petitioner is not entitled for bail at this stage and accordingly, this bail petition is liable to be dismissed.



9. In the result, this criminal original petition is **dismissed**.
sd/-

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

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TO

- 1 THE INSPECTOR OF POLICE,
TIRUNELVELI TOWN POLICE STATION,
TIRUNELVELI.
- 2 THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP(MD) No.20685 of 2021

Date :01/02/2022

PKP/SBN/SAR-3/04.02.2022/2P/3C