



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/11/2022

WEB COPY

PRESENT

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

CRL OP(MD). No.19332 of 2022

Santhanakumar

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
All Women Police Station,
Srivaikundam,
Thoothukudi District.
(Crime No.16/2022)

... Respondent/Complainant

For Petitioner : M/s.Pandian 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.16/2022 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 01.10.2022 for the offences punishable under Section 363 of IPC and Section 9 of Prohibition of Child Marriage Act, 2006 and Section 5(i) r/w 6 of POCSO Act, 2012 in crime No.16 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the the petitioner/accused had developed the love affairs with the victim girl, who is aged about 17 + years and on 28.09.2022, the petitioner kidnapped the minor victim girl and tied thali on her neck and committed aggravated penetrative sexual assault on her repeatedly. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the victim was in love with the petitioner and she herself eloped with the petitioner. He would further submit that the petitioner is an innocent person and he has been falsely implicated in this case and



the petitioner is in judicial custody from 01.10.2022. Hence, bail may be granted.

4. The learned Additional Public Prosecutor appearing for the respondent police opposed for grant of bail to the petitioner stating that the petitioner married the minor victim girl and committed aggravated penetrative sexual assault on the victim girl. He would further submit that the medical examination of the accused has been completed and 164 Cr.P.C statement of the victim girl has also been recorded and the major part of the investigation is over.

5. Considering the submissions made by the learned counsel on either side and considering the period of incarceration and also the fact that the major part of the investigation is 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 Judge for Exclusive Trial of Cases under POCSO Act, Thoothukudi District.

(i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/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 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].

sd/-

02/11/2022

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02/11/2022

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



To

- 1 THE SPECIAL JUDGE FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
THOOTHUKUDI DISTRICT.
 - 2 THE OFFICER INCHARGE, DISTRICT JAIL, PERARUNI,
THOOTHUKUDI DISTRICT.
 - 3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, SRIVAIKUNDAM,
THOOTHUKUDI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.M.PANDIAN, Advocate (SR-12302[I] dated 02/11/2022)

ORDER

IN

CRL OP(MD) No.19332 of 2022

Date :02/11/2022

CP

RS/VR/SAR.2(02.11.2022) 3P-6C