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CRL OP(MD). N



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

Date : 23/11/2022

PRESENT

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

CRL OP(MD) . No.20739 of 2022

Muthu Karuppan

... Petitioner/Sole Accused

Vs

**(*)State Rep.by
The Inspector of Police,
Thisayanvilai Police Station
Tirunelveli District.
(Crime No.248/2022) .**

... Respondent/Complainant

For Petitioner : M/s.Malaikani S,
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.248/2022 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 20.09.2022 for the offences punishable under Sections 366, 376(3) of IPC and Section 5(1) r/w 6 of the Protection of Children from Sexual Offences Act, 2012, Section 9 of Prohibition of Child Marriage Act r/w Section 3(1)(w)(1), 3(2)(v) of SC/ST (POA) Act, in Crime No.248 of 2022 on the file of the respondent police, seeks bail.



2.The case of the prosecution is that the petitioner and the victim girl became friends through instagram. On 13.09.2022 at about 8.30 a.m, when the victim girl was going to school, the petitioner came and took her to his relative Sundar's house at Anjugramam and forcibly conducted marriage with the victim girl and committed penetrative sexual assault against her. Hence, the complaint.

3.The learned counsel for the petitioner would submit that there is a love affair between the petitioner and the victim girl and both of them got married. He would further submit that the petitioner is an innocent and he did not commit any offence as alleged by the prosecution. Further, the petitioner is in judicial custody from 20.09.2022. Hence he may be granted bail.

4.The learned Additional Public Prosecutor appearing for the respondent police would submit that the victim is aged about 16+ and the statement of the victim girl has been recorded under Section 164 of Cr.P.C. He would further submit that major part of the investigation is over. However, considering the gravity of offence, he strongly opposed to grant bail to the petitioner.

5.Considering the facts and circumstances of the case and considering the period of incarceration and the statement given by the victim girl under Section 164 Cr.P.C and also the fact that 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 Judge, Special Court for cases under POCSO Act, Tirunelveli.

(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 on every Sunday 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 were imposed and the petitioner released on bail by the learned



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

sd/-
23/11/2022

(*) AMENDED AS PER ORDER OF THIS COURT DATED 06.02.2023 IN CRL MP(MD) NO.1828 OF 2023 IN CRL OP(MD) No.20739 of 2022

TIME GRANTED BY THIS COURT TO COMPLY WITH THE CONDITION IMPOSED VIDE ORDER DATED 23.11.2022 IN CRL.O.P. (MD)NO.20739 OF 2022 IS EXTENDED FOR A PERIOD OF TWO WEEKS FROM THE DATE OF RECEIPT OF AMENDED COPY OF THIS ORDER.

/ TRUE COPY /

/02/2022

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

To

TO BE SUBSTITUTED WITH THE ORDER DATED 23/11/2022 ALREADY DESPATCHED

1 THE JUDGE, SPECIAL COURT FOR CASES UNDER POCSO ACT, TIRUNELVELI.

2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DISTRICT.

3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, VALLIYUR, TIRUNELVELI DISTRICT.

4 THE INSPECTOR OF POLICE, THISAYANVILAI POLICE STATION TIRUNELVELI DISTRICT.

5 THE ADDITIONAL PUBLIC PROSECUTOR, MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/S.K.PRABHU, Advocate SR-1906

ORDER IN
CRL OP(MD) No.20739 of 2022
Date :23/11/2022

CP

RS/SSS/SAR.(23.11.2022) 3P-6C

RK/SBN/SAR-1(15.02.2023) 3P/7C