



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/12/2022

PRESENT

WEB COPY

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD). No.21457 of 2022

Somasundaram

... Petitioner/1st Accused

Vs

The State Rep.by
The Inspector of Police,
Viruveedu Police Station,
Dindigul District.
(Crime No.193/2022).

... Respondent/Complainant

For Petitioner : M/s.Muniyandi S,
Advocate.
For Respondent : Mr.T.Senthil Kumar,
Additional Public Prosecutor

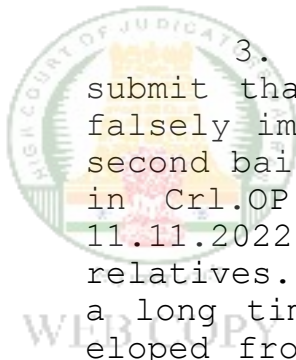
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-For Bail in Cr No.193/2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner who was arrested and remanded to judicial custody on 15.10.2022 for the offence punishable under Section Girl Missing @ Sections 366(A) of IPC and Section 5(1), 5(n) r/w 6 and 17 of Protection of Child from Sexual Offences Act, in Crime No. 193 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant viz., Kavitha is that her minor daughter, who was studying 9th standard was found missing and she had further submitted that one Somasundaram has teased her daughter while going and coming back from the School. Whiles, his parents had also compelled for marriage. Thereby, she suspected the said Somasundaram would have kidnapped her minor daughter. Based upon the complaint, case was registered in Crime No.193 of 2022 under 'Girl Missing'. Later, it was found that the petitioner had kidnapped the victim girl and had committed penetrative sexual assault upon her. Hence, the case was altered into Sections 366(A) of IPC and Section 5(1), 5(n) r/w 6 and 17 of Protection of Child from Sexual Offences Act.



3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that this is the second bail petition. Earlier bail petition, filed by the petitioner in CrI.OP(MD)No.20041 of 2022 was dismissed by this Court, on 11.11.2022. The petitioner and the defacto complainant are close relatives. The petitioner and the victim girl are having affair for a long time. Without understanding the consequences, both of them eloped from home. The petitioner had taken the victim girl to his sister's house. Subsequently, coming to know about the registration of the case, the petitioner brought back the victim girl and he was arrested. He would further submit that the major part of the investigation is over. As per the statement recorded from the victim girl, she has not made any allegation against the petitioner that he had committed sexual assault against her wish. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner and the victim girl are relatives. The petitioner had kidnapped the victim girl and committed penetrative sexual assault upon her. Hence, he opposed to grant bail to the petitioner.

5. Considering the period of incarceration and also considering the statement of the victim girl recorded under Section 164 Cr.P.C., this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 Fast Track Mahila Judge, Dindigul, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

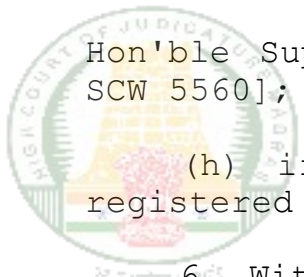
(c) the petitioner shall stay at Tirunelveli and report before the Tirunelveli Town Police Station everyday at 10.30 a.m., for a period of 4 weeks and thereafter, report before the respondent police every Saturday at 10.30 a.m, until further orders;

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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** [SCW 5560];



(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

6. With the above directions, this Criminal Original Petition is ordered.

sd/-
05/12/2022

/ TRUE COPY /

05/12/2022
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE FAST TRACK MAHILA JUDGE
DINDIGUL.
- 2 THE OFFICER INCHARGE,
DISTRICT JAIL, DINDIGUL.
- 3 THE INSPECTOR OF POLICE
VIRUVEEDU POLICE STATION, DINDIGUL DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:
THE INSPECTOR OF POLICE,
TIRUNELVELI TOWN POLICE STATION,
TIRUNELVELI

ORDER
IN
CRL OP(MD) No.21457 of 2022
Date :05/12/2022

DSS
MK/SSS/SAR IV/05.12.2022/3P/6C