



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

Date : 07/12/2022

PRESENT

WEB COPY

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

CRL OP(MD) . No.21644 of 2022

Marithangam

... Petitioner/Accused

Vs

The State Rep. by,
The Inspector of Police,
All Women Police Station,
Thoothukudi District.
(Crime No.34/2022).

... Respondent/Complainant

For Petitioner : M/s. Pandian.M,
Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :-

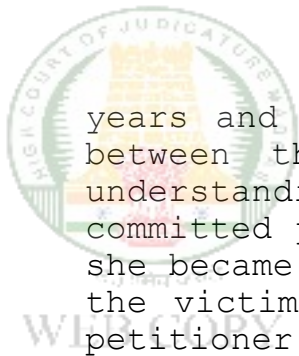
For Anticipatory Bail in Crime No.34/2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 5 (i), 5(j) (ii), 5(n) r/w 6 and 16 of POCSO Act, 2012 in Crime No.34 of 2022 on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant Murugeswari, is that her minor daughter was studying 10th standard and she was brought up in her aunt's house, while so on 31.10.2022, she was informed by her aunt that the accused had committed penetrative sexual assault on her daughter, due to which, she became five months pregnant. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is the cousin brother of the victim girl and the petitioner and the victim girl are known to each other for several



years and they have grown up together and there was a love affair between them for the past four years. The petitioner without understanding the rigorous and consequences of POCSO Act, had committed physical relationship with the victim girl, due to which, she became pregnant. He would further submit that the petitioner and the victim girl hail from poor strata of the Society and that the petitioner does not deny the paternity of the child. He would further submit that the statement has also been recorded from the victim girl, wherein, she has admitted to the love affair and that the relationship between them was consensual in nature. Thereby, he seeks for anticipatory bail.

4.The learned Government Advocate (Crl. side) would submit that the petitioner is the cousin brother of the de-facto complainant and there was an affair between him and the victim girl, due to which, he had committed penetrative sexual assault on the victim girl and the mother had found her five months of pregnancy. He would further submit that now the victim girl is 8 months pregnant and the statement has also been recorded from the victim girl under Section 164 of Cr.P.C.

5.Heard. Perused the materials available on record and also the statement recorded from the victim girl under Section 164 of Cr.P.C.

6.Taking into consideration the facts and the submissions made by both the counsels, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

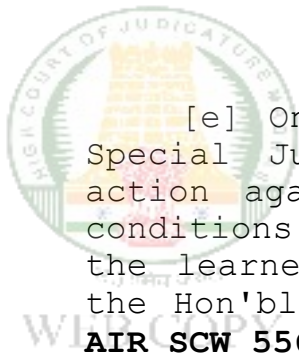
7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Special Court for POCSO Cases, Thoothukudi, on condition that the petitioner shall execute 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 concerned and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Special Judge/concerned Court may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent daily at 10.30 a.m for a period of two weeks and thereafter every Saturday at 10.30 a.m until further orders;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.



[e] On breach of any of the aforesaid conditions, the Special Judge/concerned 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 Judge/concerned Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005) AIR SCW 5560]**.

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

07/12/2022

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/12/2022

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

TO

1. THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO CASES,
THOOTHUKUDI.
2. DO-THROUGH : THE CHIEF JUDICIAL MAGISTRATE,
TUTICORIN DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THOOTHUKUDI DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.PANDIAN, Advocate (SR-14637[I] dated 09/12/2022)

ORDER

IN

CRL OP(MD) No.21644 of 2022

Date :07/12/2022

sjj

USK/VR/SAR-III/21.12.2022/3P/6C