



WEB COPY

CRL OP(MD). N



22

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/12/2022

PRESENT

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

CRL OP(MD). No.22378 of 2022

Muthukumar

... Petitioner/Accused No.3

Vs

The State Rep. By,
The Inspector of Police,
Vattathikkottai Police Station,
Thanjavur District.
(In Cr No.511/2022).

... Respondent/Complainant

For Petitioner : M/s.Rameshkumar.S,
Advocate.

For Respondent : Mr.T.Senthikumar,
Additional Public Prosecutor

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

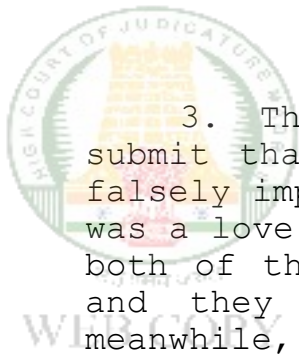
PRAYER :-

For Bail in Cr No.511/2022 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 05.11.2022 for the offence punishable under Sections 5 (1), 6 of POCSO Act, Sections 9 and 10 of Prohibition of Child Marriage Act and Sections 363 and 506(i) IPC in Crime No. 511 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that his minor daughter aged about 17 years, who was studying 12th Std., was found missing on 15.09.2022 and based on the complaint, case has been registered for the offence under "girl missing". Later, during the course of investigation, it was found that one Ayyappan had kidnapped the victim and had committed penetrative sexual assault on her and for that the petitioner and relatives abetted him in this case. Hence, the complaint.



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 further submit that there was a love affair between the victim girl and A1 viz., Ayyappan and both of them without informing their parents relatives have eloped and they have married at Viralmalai Murugan Temple. In the meanwhile, the father of the victim had given a complaint based on that a case has been registered under the "Girl missing". Later on coming to know of the registration, the said Ayyappan surrendered before the respondent police and the girl was subjected to medical examination and at the time of medical examination the victim had stated that she had eloped with A1 and they have been married in the temple and lived as husband and wife and thereafter, she was taken into custody of the father. Due to pressure of her family members, the victim had stated that A1 had kidnapped her and for that petitioner and other accused have helped him and they were kept her in illegal detention for 7 days and the said Ayyappan had sexual intercourse with her. The petitioner herein being the relative of A1 he has been falsely implicated in this case and there is no specific overt act attributed against the petitioner and he is in judicial custody from 05.11.2022 and seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that as per the statement of victim that the said Ayyappan / A1 had compelled her to marry and he had taken her with knife point to his house and subjected her illegal detention for seven days and also penetrative sexual assault on her and hence, he strongly opposed to grant bail to the petitioner.

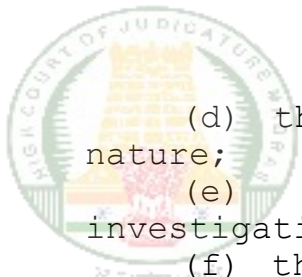
5. Heard the learned counsel appearing on either side and perused the materials including the accident register and statement of victim under Sections 161 Cr.P.C., 164 Cr.P.C.,

6. Taking into consideration of the facts and submissions made by the learned counsels and that the petitioner is in judicial custody from 05.11.2022, 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 Principal Special Court for Exclusive Trial of Cases under POCSO Act,, Thanjavur, 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 appear before the respondent police daily at 10.30 am for a period of four weeks and thereafter, once in



(d) the petitioner shall not commit any offences of 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** [(2005)AIR SCW 5560];

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

sd/-

19/12/2022

/ TRUE COPY /

19/12/2022

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

TO

1. THE SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT, THANJAVUR.
2. THE OFFICER-INCHARGE,
SUB JAIL, THANJAVUR.
3. THE INSPECTOR OF POLICE,
VATTATHIKKOTTAI POLICE STATION,
THANJAVUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.RAMESH KUMAR, Advocate (SR-15065[I] dated 19/12/2022)

ORDER

IN

CRL OP(MD) No.22378 of 2022

Date :19/12/2022

trp

USK/VR/SAR- /19.12.2022/3P/6C