



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
( Criminal Jurisdiction )  
Date : 16/12/2022  
PRESENT

WEB COPY

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

CRL OP(MD) . No.22295 of 2022

Mathankumar

... Petitioner/Accused No.1

**Vs**

1. The Inspector of Police,  
Dindigul Taluk Police Station,  
Dindigul District.  
Crime No.642 of 2022.

2. The Inspector of Police,  
All Women Police Station,  
Sanarpatti,  
Dindigul District.

... Respondents/Complainants

For Petitioner : M/s.Ramanathan An.,  
Advocate.

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

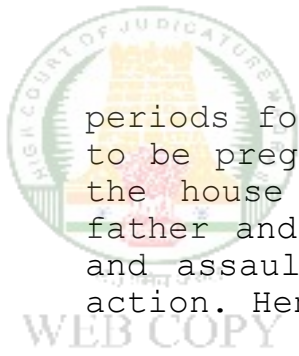
PETITION FOR BAIL Under Sec.439 of Cr.P.C.

**PRAYER :-** For Bail in Crime No.642 of 2022 on the file of the Respondent Police.

**ORDER :** The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 23.10.2022 for the offence punishable under Sections 294(b), 323 and 506(i) IPC r/w Sections 5(i) and 5(j)(ii) r/w Section 6 of Protection of Child from Sexual Offences Act, 2012 in Crime No.642 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant, who is the minor victim, is that she is born on 01.12.2005 and she was studying +2 and that the accused Mathankumar, is from the same village and they were in love with each other and on 24.08.2022, while she was on her way to the school, the petitioner had taken the de-facto complainant in his motorcycle to Sirumalai and had taken her into a forest and had compelled her to have sexual intercourse with her, due to which, she did not get



periods for two weeks and thereafter, on 21.10.2022, she was found to be pregnant and thereafter, the de-facto complainant had gone to the house of the accused and questioned him. At that time, the father and mother of the accused had abused her in filthy language and assaulted her and thereby, she had given a complaint to take action. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false complaint has been given. He would further submit that the petitioner and the de-facto complainant are relatives and there was a love affair between them. Other than this, there has been love affair and they have not gone physical, whereas, the father of the de-facto complainant had instigated her to give a false complaint as if the petitioner had compelled and had sexual intercourse with her, based on that the case was registered. He would further submit that the petitioner understands that the victim girl during the course of investigation, has given a statement under Section 164 of Cr.P.C., wherein, she has not made any allegations against the petitioner for having committed any sexual assault. He would further submit that the victim alleged to have stated that there was a love affair between her and the petitioner and due to which, there was a fight between two families and her father being antagonised with the accused and his family members, had compelled the victim to give a false complaint. He would further submit that the petitioner is in custody from 23.10.2022 and major part of the investigation is over. Hence, he seeks for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the de-facto complainant and the petitioner hail from same village. The petitioner had compelled her and taken her to a remote place in Sirumalai and had sexual intercourse with her, due to which, she became pregnant and thereafter, it has been aborted. However, he fairly submitted that the statement has been recorded from the victim girl, wherein, she has not stated about the sexual assault. He would further submit that for the purpose of investigation, DNA samples have been taken from the petitioner. Hence, he opposed for grant of bail to the petitioner.

5.In reply, the learned counsel for the petitioner would submit that the petitioner is ready and willing to furnish his samples for taking DNA.

6.Heard. Perused the materials available on record and also the statement recorded under Section 164 of Cr.P.c.

7.Taking into consideration of the facts and submissions made by the learned counsels and the undertaking given by the petitioner that he is ready and willing to give samples for conducting DNA Test



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.25,000/- (Rupees Twenty Five 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 Mahila Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) As and when the respondent police summons the petitioner for giving samples for DNA test, the petitioner is directed to furnish the samples for DNA test;

(d) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders;

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

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

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

(h) on breach of any of the aforesaid conditions, the learned Mahila Judge/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 Mahila Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala** [(2005)AIR SCW 5560];

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

sd/-

16/12/2022

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16/12/2022

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,  
DINDIGUL TALUK POLICE STATION,  
DINDIGUL DISTRICT.

4 THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
SANARPATTI,  
DINDIGUL DISTRICT.

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

+1. CC to M/S.RAMANATHAN AN. Advocate SR.No.15000

**ORDER**

**IN**

CRL OP(MD) No.22295 of 2022

Date :16/12/2022

SJI

SA/VR/SAR. /16.12.2022/4P/7C