



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 22/12/2022

PRESENT

WEB COPY

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

CRL OP(MD). No.22615 of 2022

Ayyappan

... Petitioner/Accused(A1)

Vs

The State Rep.by
The Inspector of Police,
Vattathikottai Police Station,
Thanjavur District.
Crime No.511 of 2022.

... Respondent/Complainant

For Petitioner : M/s.Hitesh Kumar C,
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.511 of 2022 on the file of the Respondent Police.

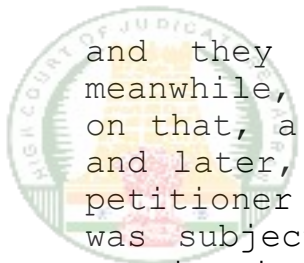
ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 13.11.2022 for the offence punishable under Sections 5(1) and 6 of POCSO Act, Sections 9 and 10 of Prohibition of Child Marriage Act and Sections 363 and 506(i) of 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 the petitioner had kidnapped the victim and had committed penetrative sexual assault on her. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and the case has been fabricated against him. He would further submit that there was a love affair between the victim girl and the petitioner and both of them without informing their parents and relatives have eloped with

<https://www.mhc.tn.gov.in/judis>



and they have married at Viralimalai Murugan Temple. Meanwhile, the father of the victim girl had given a complaint on that, a case was registered under the caption for "girl missing" and later, he came to know about the registration of the case, the petitioner was surrendered before the respondent police and the girl was subjected to medical examination and at that time of medical examination, the victim had stated that she had voluntarily eloped with the petitioner and that they have married in the temple and lived as a husband and wife and that subsequently, the victim was handed over to her parents and later, due to the pressure of her family members, the victim had given a statement from the police, as if she was kidnapped by the petitioner and that she was subjected to sexual assault when the petitioner had kept her in illegal detention for seven days. He would further submit that the perusal of the records shows that there was a previous love affair between the petitioner and the victim girl and that the relationship was consensual in nature and only due to the pressure exerted by the parents of the victim girl, she has rescinded from her earlier statement given to the Doctor and given a statement as if the petitioner had subjected her to sexual intercourse while she was kept in illegal detention. He would further submit that the petitioner is in jail from 13.11.2022 and hence, he seeks for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that as per the statement of the victim girl, the petitioner had compelled her to marry her and taken her at knife point to his sister's house and had subjected her to illegal detention for seven days and also committed penetrative sexual assault on her. Hence, he opposed to grant bail to the petitioner.

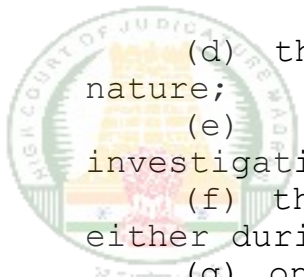
5.Heard. Perused the materials available on record including the First Information Report and also the statement recorded from the victim girl under Sections 161 and 164 of Cr.P.C.

6.Taking into consideration of the facts and submissions made by the learned counsels and after perusing the materials available on record, this Court without expressing any opinion with regard to the merits of the case finds that it is a fit case for grant of bail. Accordingly, bail is granted to the petitioner subject to the following conditions:

(a) 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 Judicial Magistrate, Pattukkottai, 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 report before the respondent police daily at 10.30 a.m., until further orders;



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

(e) the petitioner shall not abscond either 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/-

22/12/2022

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22/12/2022

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

TO

1 THE JUDICIAL MAGISTRATE,
PATTUKKOTTAI.

2 THE CHIEF JUDICIAL MAGISTRATE
THANJAVUR DISTRICT AT KUMBAKONAM.

3 THE OFFICER INCHARGE,
SUB JAIL, PAPANASAM.

4 THE INSPECTOR OF POLICE
VATTATHIKOTTAI POLICE STATION, THANJAVUR DISTRICT.

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

+1 CC to M/s.HITESH KUMAR C, Advocate (SR-15291[I] dated 22/12/2022)

ORDER

IN

CRL OP(MD) No.22615 of 2022

Date :22/12/2022

SJI

MK/SSS/SAR 1/22.12.2022/3P/7C