



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

Date : 05/01/2023

PRESENT

WEB COPY

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

CRL OP(MD) . No.95 of 2023

K.Karthick @ Kamsala Karthick

... Petitioner/Accused No.2

Vs

The State Rep. by,
The Inspector of Police,
All Women Police Station,
Aruppukkottai,
Virudhunagar District.
(Cr.No.23 of 2022).

... Respondent/Complainant

For Petitioner : M/s. Anantha Murugan.S.M.,
Advocate.

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

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

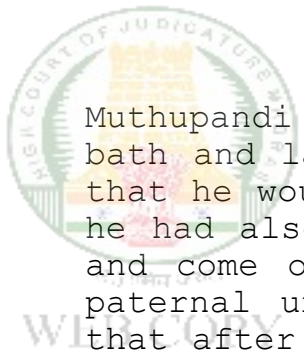
PRAYER :-

For Bail in Crime No.23 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A2, who was arrested and remanded to judicial custody on 23.10.2022 for the offence punishable under Sections 5(1) r/w 6, 15, 16 r/w 17 of POCSO Act, 2012 and Sections 9 and 10 of Prohibition of Child Marriage Act, in Crime No.23 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant XXXXX (now 18 years), is that she has completed 12th standard and that while she was studying +1, her relative one Muthupandi was speaking with her in cellphone. While so, during 2021, the said Muthupandi who was working in Andrapradesh had come to the native place and that he had requested for sexual favour and she has refused for the same and during April 2022, she had gone to Andrapradesh to the relative's house, during such time, the said



Muthupandi had taken obscene videos of her, while she was taking bath and later, he had sent it to her cellphone and threatened her that he would circulate it to so many other persons and thereafter, he had also threatened her and blackmailed her to remove the dress and come on video call. Later, he had compelled her to marry her paternal uncle Karthick (the petitioner herein) and also told her that after marriage, he will continue to have relationship with her and later, on his compulsion, the child marriage was performed with the petitioner and when she was along with her husband, the accused Muthupandi had sent the videos to the said Karthick, thereby, there was a matrimonial dispute between them and the said Karthick had sent her away from the matrimonial home after committing cruelty.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he is a victim of circumstances. The main accused in this case one Muthupandi had taken obscene videos of the victim girl and he had blackmailed and threatened her and on his compulsion, the victim had agreed for the marriage with the petitioner, the petitioner being the maternal uncle of the victim had agreed for the marriage and after marriage, she had taken her to Andrapradesh. While they were in Andrapradesh, the main accused Muthupandi had sent the obscene videos to the petitioner's mobile phone and that the petitioner being shocked over the same, had questioned the victim and there was a quarrel between them and thereafter, the petitioner coming to know about the earlier incident, had sent her back to the native place and at the native place, the victim has given such a complaint. He would further submit that the petitioner unknowingly being the maternal uncle of the victim had agreed for the marriage thinking that the victim was more than 18 years. He would further submit that the petitioner was arrested on 23.10.2022 and he is in custody for more than so many days. He would further submit that the major part of the investigation is over and the petitioner also 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 serious allegations against the petitioner and the main allegations are made only against the said Muthupandi, who is also a close relative of the victim and thereby, he would seek for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the victim is presently 18 years old, when she was a minor, one Muthupandi had taken obscene video of her, while she was taking bath and threatened her and blackmailed her and later on his compulsion, the victim was compelled to marry the petitioner and thereafter, the petitioner had also sexual intercourse with her and later, coming to know about the obscene video, the petitioner and her mother after committing matrimonial cruelty had sent her out of the matrimonial home. He would further submit that the statement of the victim has also been recorded under Section 164 of Cr.P.C. and hence, he opposed for grant of 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 Section 164 of Cr.P.C.

6. Taking into consideration of the facts and submissions made by the learned counsels and also considering the period of incarceration, 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 Special Court for Exclusive Trial of Cases under POCSO Act, Virudhunagar District at Srivilliputhur, and on further conditions that:

[b] 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.

[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 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 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].

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

sd/-

05/01/2023

/ TRUE COPY /

05/01/2023

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



TO

1. THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POSCO ACT,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.
2. THE OFFICER-INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, ARUPPUKOTTAI,
VIRUDHUNAGAR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.ANANTHA MURUGAN.S.M., Advocate (SR-172[I] dated
05/01/2023)

ORDER

IN

CRL OP(MD) No.95 of 2023

Date :05/01/2023

USK/VR/SAR- /05.01.2023/4P/6C