



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

Date : 05/01/2023

PRESENT

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

CRL OP(MD). No.190 of 2023

WEB COPY

Abinandhan

... Petitioner/Accused

Vs

State Rep.by
The Inspector of Police,
Keeraithurai Police Station,
Madurai District.
(Crime No.495 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Sundarapandian S,
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.495 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 23.10.2022 for the offence punishable under Sections 5(1), 6, 16 and 17 of POCSO Act, in Crime No.495 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant Girija, is that her minor daughter aged 14 years, who was studying 9th standard, had gone to Athletic training and did not return back to home and she was found missing on 09.08.2022 and on the complaint given by her, a case was registered in Crime No.495 of 2022 for "Girl Missing". During the course of investigation, it came to light that the petitioner/accused had kidnapped the victim girl and had performed child marriage with her and had also committed penetrative sexual assault with her. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is aged about 18 years. He would further submit that the petitioner and the victim girl became friends in social media and the petitioner without understanding the consequences and rigours of POCSO Act and the Child Marriage Restraint Act, had developed love affair and thereafter, both of them without the knowledge of the parents, eloped and went to Krishnagiri and various



places. Later, coming to know about the registration of the case, the petitioner along with the victim girl surrendered before the respondent police and the petitioner was arrested. He would further submit that the petitioner is only aged about 18 years and the major part of the investigation is also over and 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 had stated that she had voluntarily gone along with the petitioner and the physical relationship between them is consensual in nature. He would further submit that the petitioner is ready to abide by any stringent condition and also ready to furnish adequate sureties and he would seek for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner who is aged about 18 years, had developed friendship with the victim girl in social media and thereafter, had kidnapped the victim girl and had taken her to his relative's house and various places and had committed sexual assault and hence, he would object for grant of bail to the petitioner. He would further submit that the statement of the victim girl has been recorded under Section 164 of Cr.P.C.

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 Sessions Judge, Principal Special Court for Exclusive Trial of Cases under POCSO Act, Madurai, and on further conditions that:

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

[c] the petitioner shall stay at Cuddalore and report before the Inspector of Police, Cuddalore All Women Police Station, Cuddalore District, daily at 10.30 A.M. for a period of two weeks and thereafter, every Saturday at 10.30 A.M.

[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 Sessions 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 Sessions 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

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05/01/2023

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

SJI

TO

1 THE SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT,
MADURAI.

2 THE INSPECTOR OF POLICE, KEERAITHURAI POLICE STATION,
MADURAI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, MADURAI.

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

COPY TO

THE INSPECTOR OF POLICE,
CUDDALORE ALL WOMEN POLICE STATION,
CUDDALORE DISTRICT.

ORDER IN

CRL OP(MD) No.190 of 2023

Date :05/01/2023

RS/SSS/SAR.(05.01.2023) 3P-6C

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