



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 27/01/2023

PRESENT

WEB COPY

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

CRL OP(MD) . No.1518 of 2023

K.Suriya Prakash

... Petitioner/Sole Accused

Vs

The State Rep.by
The Inspector of Police,
All Women Police Station
Thidal Police Station,
Madurai District.
Crime No.42/2022..

... Respondent/Complainant

For Petitioner : M/s.Jerin Mathew M,
Advocate.

For Respondent : Mr.A.Albert James,
Government Advocate (Crl.Side)

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

PRAYER :-

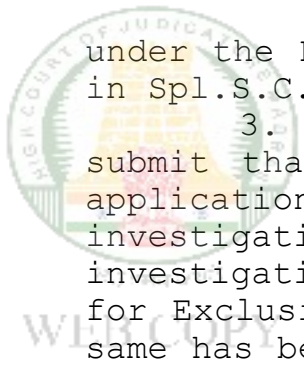
To enlarge the petitioner/accused on bail in Spl.SC.No.306/2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act..

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 30.08.2022 for the offence punishable under Section 366 of IPC and Section 5(j)(ii), 5(l) and 6 of Protection of Child from Sexual Offences Act, 2012 in Crime No.42 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that as per the defacto complainant, mother of the victim XXXX(born on 08.11.2004) is that the accused had induced her minor daughter and become friends and later the accused had given her drinks spiked with sedative due to which she became unconscious and later had taken her to the house where he had committed penetrative sexual assault, due to which she became pregnant. After completion of investigation final report has been filed before the Special Court for Exclusive Trial of cases





under the POCSO Act, Madurai and the same has been taken cognizance in Spl.S.C. No.306 of 2022, hence he seeks bail.

3. The learned counsel appearing for the petitioner would submit that this is the fourth bail application and the earlier applications for bail were dismissed as withdrawn when the investigation was pending. He would further submit that after investigation final report has been filed before the Special Court for Exclusive Trial of cases under the POCSO Act, Madurai and the same has been taken cognizance in Spl.S.C. No.306 of 2022. He would further submit that the case of love affair has been projected as though the petitioner herein induced the victim girl and committed penetrative sexual assault by giving her a drink spiked with sedative. He would further submit that the petitioner without understanding the rigours and consequences of POCSO Act had consensual sexual relationship with the victim who is aged about 17 years and 7 months at the time of occurrence, due to which the victim had become pregnant and on the complaint given by the mother the case has been filed. The victim had now attained majority. He would further submit that the petitioner has to engage an advocate to defend his case and he is in custody from 30.08.2022, hence he seeks bail.

4. The learned Government Advocate(Crl.Side) appearing for the respondent would submit that the petitioner had induced the victim girl and had given her drinks spiked with sedative due to which she became unconscious and later taken her to the house where he had penetrative sexual assault, due to which she became pregnant. The case came to be registered on the complaint given by the mother.

5. In reply the learned counsel for the petitioner would submit that though the incident had taken place on 13.06.2022 the complaint was given only on 30.08.2022 after a period of two months only after it came to light that the victim was pregnant. He would submit that the relationship was consensual.

6. Heard. Perused the materials available on record including the First Information Report.

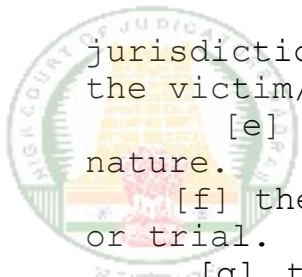
7. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration this court is inclined to grant bail to the petitioner, subject to the following conditions:

[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, Special Court for Exclusive Trial of cases under the 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 Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[c] the petitioner shall stay at Virudhunagar and report before the Virudhunagar Town Police daily at 10.30 a.m., until further orders excepting the days when his presence is required before the trial court for trial at Madurai.

[d] It is made clear that the petitioner shall not enter into



jurisdiction limit of the respondent police till the examination of the victim/defacto complainant.

[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 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].

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

sd/-

27/01/2023

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27/01/2023

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

TO

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

2.THE SUPERINTENDENT,
CENTRAL PRISON,MADURAI.

3.THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION THIDAL POLICE
STATION, MADURAI DISTRICT.

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

+1. CC to M/S.JERIN MATHEW M Advocate SR.No.1312

ORDER

IN

CRL OP(MD) No.1518 of 2023

Date :27/01/2023