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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 25/01/2023

PRESENT

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

CRL OP(MD) . No.1419 of 2023

Kaliraj

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Sankarankovil,
Tirunelveli District.
Crime No.11 of 2021..

... Respondent/Complainant

For Petitioner : M/s.Kanagaraj.T,
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.11 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 04.01.2023 for the offence punishable under Sections 12 r/w. 11(i),10,9(n) of Protection of Children from sexual offences Act, 2012 and Sections 294(b),509,506(i) of IPC in Crime No.11 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there is a dispute pending between the petitioner and the defacto complainant and that on 03.07.2021 when the complainant along with the minor daughter were going to Kaviya Store for buying groceries the accused had



abused her and her minor child in filthy language and also exposed his private part to the minor victim girl by removing his dhoties. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him on account of family feud. He would further submit that earlier the defacto complainant had given false complaint against the petitioner on 02.07.2021 before the Sankarankovil Town Police Station and the petitioner was called for enquiry and during enquiry it was found that the earlier complaint was false, therefore in order to trap the petitioner the defacto complainant had given a false complaint. He further submitted that even as per the complaint there is no allegation of physical abuse, hence he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner exposed his private part to the minor victim girl by removing his dhoti and also abused the defacto complainant and her daughter in filthy language, hence he objected to grant bail to the petitioner.

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

6. 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 POCSO Act, Tirunelveli, 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 Thoothukudi and report before the South Police Station, Thoothukudi 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
<https://www.judiciary.gov.in/> 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 absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
25/01/2023

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25/01/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

- 1.THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
TIRUNELVELI.
- 2.THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI.
- 3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANKARANKOVIL, TIRUNELVELI DISTRICT.
- 4 ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO

THE INSPECTOR OF POLICE,
SOUTH POLICE STATION, THOOTHUKUDI

+1 CC to M/s.T.KANAGARAJ, Advocate (SR-1136[I] dated 25/01/2023)

ORDER
IN
CRL OP(MD) No.1419 of 2023
Date :25/01/2023

RD/SSS/SAR (25/01/2023) 3P 7C

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