



WEB COPY

CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 02/02/2023

PRESENT

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

CRL OP(MD) . No.2069 of 2023

Albert J Kennedy

... Petitioner/Single Accused

Vs

State Rep.by

The Inspector of Police,
All Women Police Station,
Kadambur.

(Crime No.9 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Samuel Gunasingh.P,
Advocate.

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

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

PRAYER :-

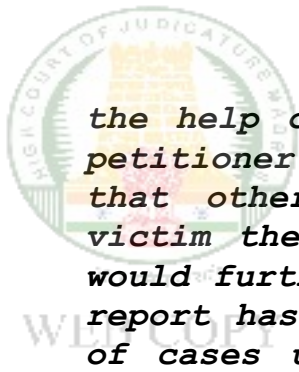
For Bail in Crime No.09 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 16.11.2022 for the offence punishable under Sections 9(m),9(f) and 10 of Protection of Child from Sexual Offences Act, 2012 in Crime No.9 of 2022 on the file of the respondent police, seeks bail.

(*)"2. The case of the prosecution as per the defacto complainant is that her minor daughter (XXXX), aged 9 years was studying IV standard in a school and on 08.11.2022 when she had gone to the school the accused who is a social science teacher had touched her private parts inappropriately. Hence the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and the victim misbehaved with her classmate and when the petitioner warned that he will inform the same to her parents the victim had made a false allegation and with



the help of her mother has given a false complaint as the petitioner misbehaved with the victim girl. He would further submit that other than the allegation of touching inappropriately the victim there is no allegation of harassment or sexual assault. He would further submit that the investigation has completed and final report has been filed before the Special Court for Exclusive trial of cases under POCSO Act, Thoothukudi and the same is yet to be taken cognizance. He would further submit that the petitioner is in judicial custody from 16.11.2022, hence he seeks bail."

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner who is working as a social science teacher had inappropriately touched the victim girl, hence he objected to grant bail to the petitioner. He would further submit that the investigation has completed and final report has been filed before the Special Court for Exclusive trial of cases under POCSO Act, Thoothukudi and the same is yet to be taken cognizance.

5. Heard. Perused the materials available on record including the First Information Report and the statement of the victim recorded under Section 164 of Cr.P.C.

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 Special Court for Exclusive trial of cases under POCSO Act, Thoothukudi 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 report before the Special Court for Exclusive trial of cases under POCSO Act, Thoothukudi on all working days at 10.30 a.m., until further orders.

[d] the petitioner shall not enter the jurisdiction limit of the respondent police until further orders and shall not make an attempt to contact the witnesses.

[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/-

02/02/2023

**(*)Corrected as per order of this
Hon'ble Court in CRL OP(MD).2069/2023
dated 06.02.2023**

/ TRUE COPY /

07/02/2023

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

AAV

TO

TO BE SUBSTITUTED WITH THE ORDER ALREADY DESPATCHED ON 02.02.2023

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

+1 CC to M/s.P.SAMUELGUNASINGH, Advocate (SR-1827[I] dated 06/02/2023)

ORDER IN

CRL OP(MD) No.2069 of 2023

Date :02/02/2023

RS/SSS/SAR.(02.02.2023) 3P-6C

RS/VR/SAR.(07.02.2023) 3P-6C

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