



WEB COPY

CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 15/02/2023

PRESENT

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

CRL OP(MD) . No.2691 of 2023

Christopher ... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
Uthumalai Police Station,
Uthumalai, Tenkasi District
(Crime No.3 of 2023).

... Respondent/Complainant

For Petitioner : M/s.Saravanan.A, Advocate.

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

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

PRAYER :-

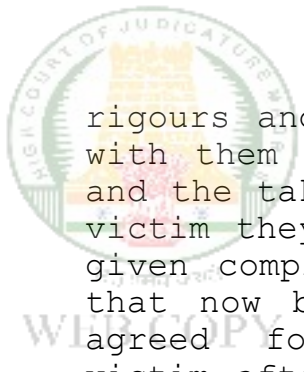
For Bail in Crime No.3 of 2023 on the file of the respondent police

ORDER : The Court made the following order :-

The petitioner /sole accused who was arrested and remanded to judicial custody on 19.01.2023 for the offences under sections 366,376 of IPC and section 6 r/w.5(1) of POCSO Act in crime number 3 of 2023 on the file of the respondent police seeks bail.

2. The case of the prosecution as per the defacto complainant (XXXX) aged about 17 years and four months is that her maternal uncle son committed penetrative sexual assault on her and later refused to marry her and the parents of the accused have also refused to arrange marriage for them, hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and due to misunderstanding a false complaint has been given. He would further submit that the father of the petitioner and the mother of the victim are siblings. He would further submit that there was a love affair between the petitioner and the victim and it is not known to the family members. The petitioner and the victim without understanding the



rigours and consequences of POCSO Act had consensual sexual intercourse with them and later it came to the knowledge of both the families and the taking into consideration the age of the petitioner and the victim they refused to arrange marriage and thereby the victim has given complaint to the respondent police. He would further submit that now both the parents of the victim and the petitioner have agreed for arranging the marriage between the petitioner and the victim after the victim attains the marriageable age and they have also filed affidavits before this court agreeing for marriage, hence he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that though the petitioner and the victim are relatives the victim is aged about 17 years and four months and the petitioner is aged about 24 years. The petitioner had taken the victim girl to the secluded place and had committed penetrative sexual assault and thereafter refused to marry her, hence he objected to grant bail to the petitioner. He would further submit that parents of the victim and petitioner has now agreed to arrange for marriage between the petitioner and the victim after she attains the marriageable age and after she completes her studies.

5. Heard. Perused the materials available on record including the First Information Report, statement of the victim recorded under Section 164 of Cr.P.C and the affidavits of undertaking filed by the parents of the petitioner and the victim.

6. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration and also the affidavit of undertaking filed by both the families, 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, 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 report before the respondent police as and when required for interrogation.

[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.

WEB COPY

[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.

[I] The petitioner after coming out from prison within a period of one week shall file an affidavit of undertaking before the trial court that he will not disturb the victim girl until she attains majority.

sd/-

15/02/2023

/ TRUE COPY /

15/02/2023

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 THE POCSO ACT,
TIRUNELVELI.

2 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.

3 THE INSPECTOR OF POLICE, UTHUMALAI POLICE STATION,
UTHUMALAI, TENKASI DISTRICT.

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

+1 CC to M/s.A.SARAVANAN, Advocate (SR-2312[I] dated 15/02/2023)

ORDER IN

CRL OP(MD) No.2691 of 2023

Date :15/02/2023

RS/SSS/SAR.(15.02.2023) 3P-6C

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