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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.2925 of 2023

Nallathambi

... Petitioner/Sole Accused

Vs

State Rep.by
The Inspector of Police,
(*)All Women Police Station,
Keeranur,
Pudukottai District.
(Crime No.6/2021).

... Respondent/Complainant

**(*) (Amended as per the order of the
court dated 15.02.2023 in CRL MP(MD)
No.2894 of 2023 in CRL OP(MD).
2925/2023)**

For Petitioner : M/s.Karunakaran K M, 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.6/2021 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 06.05.2021 for the offences under sections 342 of IPC and section 9(1),9(m),10 of POCSO Amendment Act,2019 in Crime No.06 of 2021 on the file of the respondent police seeks bail.

2.The case of the prosecution as per the defacto complainant/mother of the victim is that the petitioner/accused who is known to her had kissed on the private part of the minor victim girl aged about 3 ½ years, hence the case.



3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and to due to enmity a false complaint has been given. He would further submit that the defacto complainant is a tenant under the petitioner and there was a tenancy dispute and in order to wreck vengeance she has given a false complaint as if the petitioner misbehaved with the victim child. He would further submit that the case has been taken up for trial in Spl.S.C. No.13 of 2021 on the file of the Mahila Court, Pudukottai and PW.1/defacto complainant and PW.2/victim has been examined and during the course of examination the victim has not supported the case of the prosecution and she had deposed that the petitioner had not done anything. He would further submit that the petitioner is in custody from 06.05.2021 for no fault on him. He would further submit that the defacto complainant is only a hearsay witness, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the sole accused in S.C.No.13 of 2021. He would further submit that the allegations in the charge sheet is that the petitioner had kissed the private part of the minor victim girl. He would further submit that PW.1/defacto complainant and PW.2/victim have been examined during trial.

5.Heard. Perused the materials available on record including the First Information Report and including the deposition of PW.1/defacto complainant and PW.2/victim. Further PW 2 has deposed that the accused has not done anything..

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, Mahila Court, Pudukottai 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 learned Sessions Judge, Mahila Court, Pudukottai daily at 10.30 A.M., 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 either 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/-

15/02/2023

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15/02/2023

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

AAV

TO

1 THE SESSIONS JUDGE, MAHILA COURT, PUDUKOTTAI.

2 THE SUPERINTENDENT, CENTRAL PRISON, TRICHY.

3 THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, KEERANUR, PUDUKOTTAI DISTRICT.

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

+1 CC to M/s.K.M.KARUNAKARAN, Advocate (SR-2340[I] dated 15/02/2023)

ORDER

IN

CRL OP(MD) No.2925 of 2023

Date :15/02/2023

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