



PRBEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 21/02/2023
PRESENT

WEB COPY

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

CRL OP(MD) . No.3348 of 2023

Kalaiselvan @ Selvam

... Petitioner/Accused

Vs

The State rep.by
The Sub Inspector of Police,
Kombai Police Station,
Theni District.
Crime No.118 of 2022.

... Respondent/Complainant

For Petitioner : Mr.SUDHAGAR NAGARAJ.N,
Advocate.

For Respondent : Mr.T.SENTHIL KUMAR,
Additional Public Prosecutor

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

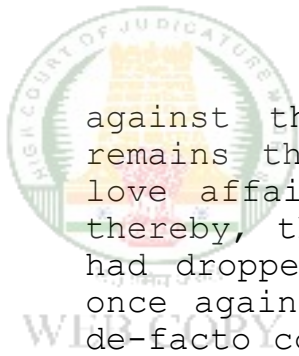
PRAYER :- For Bail in Crime No.118 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused, who was arrested and remanded to judicial custody on 02.12.2022 for the offence punishable under Section 366(A) of IPC and Sections 5(1), 6 and 17 of POCSO Act, 2012 in Crime No.118 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant Indirani, is that her daughter aged 15 years was found missing and she had suspected the petitioner and gave a complaint, based on which, a case was registered in Crime No.118 of 2022 for the offence under Section 366(A) of IPC and Sections 5(1), 6 and 17 of POCSO Act, 2012. During the course of investigation, it came to light that the petitioner had kidnapped the minor victim girl and committed penetrative sexual assault on her. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would further submit that the petitioner and the victim girl are residents of the same village and they grew up together and there was a friendship between them. Since they belong to different communities, the de-facto complainant has given a false complaint



against the petitioner. He would further submit that it remains that the de-facto complainant suspected that there was a love affair, she has been shouting at the victim girl often and thereby, the victim girl had come out of the house. The petitioner had dropped the victim girl in her grandmother's house and later, once again, since the victim girl was continuously harassed by the de-facto complainant, she had come along with the petitioner and the petitioner had taken her to Kerala and left her in his sister's house, other than that, he has not committed any offence. He would further submit that the petitioner understands that the statement has been recorded from the victim girl under Section 164 of Cr.P.C., wherein, the victim girl has not made any allegations of sexual assault against the petitioner. He would further submit that the petitioner is in judicial custody from 02.12.2022 and hence, he would seek for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner and the victim girl are from the same locality and they belong to different communities. The petitioner is aged 25 years and the victim girl is aged 15 years and there was a love affair between them and the petitioner had kidnapped the victim girl from the custody of her mother and left her at his sister's house in Kerala. Based on the complaint, the petitioner was arrested and the victim was secured. He would further submit that the major part of the investigation is over. Hence, he would object for grant of bail.

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

6.Taking into consideration of the facts and submissions made by the learned counsels, 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, Mahalir Neethimandram, Fast Track Mahila Court, Theni, and on further conditions that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Sessions Judge may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[c] the petitioner shall stay at Madurai and report before the Inspector of Police, Y.Othakadai Police Station, Madurai daily at 10.30 A.M., until further orders.



[d] the petitioner shall not commit any offences of 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 Sessions Judge/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 Sessions Judge/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/-

21/02/2023

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21/02/2023

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

SJI

TO

1 THE SESSIONS JUDGE,
MAHALIR NEETHIMANDRAM, FAST TRACK MAHILA COURT, THENI.

2 THE OFFICER INCHARGE
THEKKAMPATTI PRISON, THENI DISTRICT.

3 THE SUB INSPECTOR OF POLICE,
KOMBAI POLICE STATION,
THENI DISTRICT.

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

COPY TO:

THE INSPECTOR OF POLICE,
Y.OTHAKADAI POLICE STATION,
MADURAI DISTRICT.

+1. CC to M/S.SUDHAGAR NAGARAJ.N Advocate SR.No.2561 (I)
Dt.21/02/2023

ORDER IN

CRL OP(MD) No.3348 of 2023
Date :21/02/2023

SA/SBN/SAR. /21.02.2023/3P/7C

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