



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.02.2023

PRESENT

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WEB COPY

CRL.O.P(MD)No.3446 of 2023

Karthik

...Petitioner/Accused NO.3

-vs-

The State represented by  
The Inspector of Police,  
Othakadai Police Station,  
Madurai District.  
(in Cr.No.256 of 2022)

...Respondent/Complainant

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

PRAYER :-

For Bail in Crime No.256 of 2022 on the file of the Respondent Police.

For Petitioner : Mr.S.Pandiyaraj, Advocate

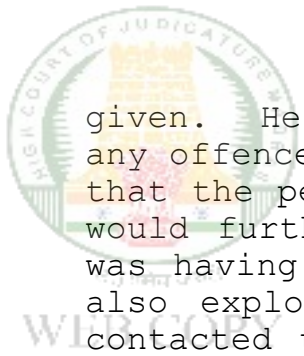
For Respondent : Mr.T.Senthil Kumar  
Additional Public Prosecutor  
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O R D E R

The petitioner, who was arrested and remanded to judicial custody on 31.12.2022 for the offences punishable under Section girl missing @ Section 5(L), 6, 7, 8, 16 and 17 of POCSO Act, r/w 9 and 10 of Child Marriage Act in Crime No.256 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant, Kalaivani, is that she was separated from her husband and living with her minor daughter, aged 15 years and that on 11.08.2022, her daughter who had gone to the grocery shop, did not return back home and on the complaint given by the de-facto complainant, the case was registered as one under girl missing and subsequently, during the course of investigation, it was found that the petitioner had eloped with the victim girl and had committed penetrative sexual assault on her. Later, the girl was secured and on her statement, the de-facto complainant and her paramours Annamalai and Sathish Kumar, were also added as accused.

3.The learned Counsel appearing for the petitioner would submit that the petitioner is an innocent and a false complaint has been



given. He would also submit that the petitioner has not committed any offence, as alleged by the prosecution. He would further submit that the petitioner is a neighbour of the de-facto complainant. He would further submit that the victim's mother/de-facto complainant was having illegal affair with several other persons and they have also exploited the victim girl and thereby, the victim girl had contacted the petitioner seeking solace and during such time, they developed love and the de-facto complainant coming to know that, had also tortured the victim and she unable to bear the torture, the victim had eloped from her house and she had joined with the petitioner and in order to give protection, the petitioner had taken her and left her to his sister's house at Tirumangalam and other than that, the petitioner has not committed any offence as alleged by the prosecution. The learned Counsel for the petitioner would submit that the petitioner also understands that a statement has been recorded from the victim girl under Section 164 Cr.P.C., wherein, she has made allegations against the her mother and her paramours Annamalai and Sathish Kumar, who have misbehaved with her and the victim has not made any allegations as against the petitioner.

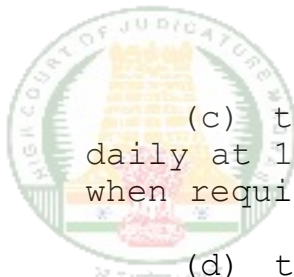
4.The learned Additional Public Prosecutor appearing for the respondent would submit that on the complaint given by one Kalaivani, a case came to be registered in respect of her missing daughter. Later, during the course of investigation, the victim was secured and she had given a statement stating that her mother had misused her and her mother's paramours have also misbehaved with her and he would fairly concede that the victim has not made any allegation as against the petitioner.

5.Heard. Perused the materials available on record in the FIR as well as the statement recorded from the victim girl under Section 164 Cr.P.C.

6.Taking into consideration of the facts and submissions made by the learned Counsels and that the petitioner is in judicial custody from 31.12.2022, 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 District and Sessions Judge, Special Court for the Exclusive Trial of POCSO Act Cases, Madurai, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;



(c) the petitioner shall report before the responder daily at 10.30 a.m., for a period of one week and thereafter, as and when required on issuance of summons.

(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 petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-  
22/02/2023

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22/02/2023  
Sub-Assistant Registrar (C.S.)  
Madurai Bench of Madras High Court,  
Madurai - 625 023.

CMR  
TO

- 1 THE DISTRICT AND SESSION JUDGE  
SPECIAL COURT FOR THE EXCLUSIVE TRIAL OF  
POCSO ACT CASES, MADURAI.
- 2 THE INSPECTOR OF POLICE  
OTHAKADAI POLICE STATION, MADURAI DISTRICT.
- 3 THE SUPERINTEINDENT  
CENTRAL PRISON, MADURAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,  
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.S.PANDIYARAJ, Advocate ( SR-2650[I] dated 22/02/2023 )  
ORDER  
IN  
CRL OP(MD) No.3446 of 2023  
Date :22/02/2023