



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 28/02/2023
PRESENT

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

CRL OP(MD) . No.3861 of 2023

Kiruba @ Kirubakaran

... Petitioner/1st Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Palani,
Dindigul District.
Crime No.10 of 2022.

... Respondent/Complainant

For Petitioner : Mr.S.MUNIYANDI,
Advocate.

For Respondent : Mr.T.SENTHIL KUMAR,
Government Advocate (Crl.Side)

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

PRAYER :- For Bail in Crime No.10 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner/A1 who is facing trial for the offence punishable under Section 366 IPC and Section 5(1) r/w 6 of Protection of Child from Sexual Offences Act in Spl.S.C.No.134 of 2022 on the file of the learned Fast Track Mahila Court, Dindigul in Crime No.10 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner is already a married man. The victim girl is a school going student. The petitioner had committed sexual assault upon the victim girl in the name of love. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent and he has not committed any offence as mentioned in the FIR. He would further submit that there was a consensual affair between the victim and the petitioner and that earlier, the learned Sessions Judge, Fast Track Mahila Court, Dindigul had granted bail to the petitioner in Crl.M.P.No.2172 of



2022 on 13.12.2022 and thereafter, since the petitioner did not appear before the Court on 09.01.2023, Non-bailable Warrant of arrest was issued and later, the bail was cancelled and the petitioner has voluntarily surrendered himself on 03.02.2023 and he is in custody for the past 20 days. Hence, he would seek for bail.

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4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner along with A2 and A3 had earlier approached this Court seeking bail in Crl.O.P.(MD)No.21139 of 2022 and this Court had dismissed the bail application on 30.11.2022. However, suppressing the same, the petitioner had filed an application for bail in Crl.M.P.No.2172 of 2022 before the learned Sessions Judge, Fast Track Mahila Court, Dindigul and the petitioner was granted bail on 13.12.2022. Later, the case was taken up for trial in Spl.S.C.No.134 of 2022 and when the case was posted for trial, the petitioner and the other accused absconded and thereby, the trial Court had issued Non-bailable Warrant of arrest. Subsequently, the respondent had also moved an application for cancellation bail in Crl.M.P.No.95 of 2023 and that application came to be allowed on 02.02.2023 and the petitioner has voluntarily surrendered himself on 03.02.2023. He would further submit that the co-accused, in this case, are absconding. Further, the petitioner, who is a married man, had induced the victim girl and had committed penetrative sexual assault on the girl. He would further submit that the petitioner has a history of absconding and if he is released on bail, he would abscond again and thereby, derailing the progress of trial. He would further submit that there is an earlier direction of this Court to complete the trial within two months and hence, he would object for grant of bail.

5. Heard. Perused the materials available on record including the First Information Report.

6. Taking into consideration of the fact that the petitioner has voluntarily surrendered before the concerned Court immediately on the cancellation of bail, 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 blood sureties each for a like sum to the satisfaction of the learned Fast Track Mahila Court, Dindigul, 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 Fast Track Mahila Court, Dindigul on all hearing dates at 10.30 a.m. and the petitioner shall appear before the respondent police



daily at 07.30 p.m. until further orders.

[d] the petitioner shall not commit any offences of similar nature.

[e] the petitioner shall not abscond during 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/-

28/02/2023

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28/02/2023

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

SJI

TO

1 THE SESSIONS JUDGE, FAST TRACK MAHILA COURT, DINDIGUL.

2 THE OFFICER INCHARGE, DISTRICT PRISON, DINDIGUL.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PALANI, DINDIGUL DISTRICT.

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

ORDER

IN

CRL OP(MD) No.3861 of 2023

Date :28/02/2023

SA/SSS/SAR. /28.02.2023/3P/5C