



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

( Criminal Jurisdiction )

Date : 07/03/2023

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PRESENT

**The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN**

CRL OP(MD) . No.4372 of 2023

1. Bagathal

2. Bose

... Petitioners/Accused 2 & 3

Vs

State Rep.by

The Inspector of Police,

Koodakovil Police Station,

Madurai District.

Crime No.26/2023.

... Respondent/Complainant

For Petitioners : M/s.Suresh M,  
Advocate.

For Respondent : Mr.R.M.Anbunithi,  
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.26 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioners/A2 & A3, who were arrested and remanded to judicial custody on 14.02.2023 for the offence punishable under Section 5(1) and 6 of POCSO Act and Sections 9 and 10 of Prohibition of Child Marriage Act, 2006 in Crime No.26 of 2023 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners have received money from the first accused and arranged marriage for the victim, who is aged about 17 years. Hence, the case.

3.The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. Hence, he would seek for bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners have received money



from the first accused and arranged marriage for the victim is aged about 17 years. Hence, he would object for grant of bail.

5. On perusal of the statement recorded under Section 164 of Cr.P.C., reveals that the victim girl fell in love with her uncle, one Kalimuthu. Thereafter, they had physical relationship. In order to get marry with her uncle, her mother namely, the first petitioner received a sum of Rs.1,50,000/- from her uncle. Thereafter, she also tried to get marry with the second petitioner, namely, the grandfather. Immediately, it was informed to her uncle and thereafter, she was eloped from her house. The petitioners are arrayed as A2 and A3. A1 was arrested and remanded to judicial custody. Insofar as the petitioners are concerned, the first petitioner is the mother of the victim girl and the second petitioner is the grandfather of the victim girl. They have no specific overt act in order to attract the offence as alleged by the prosecution.

6. Considering the facts and circumstances of the case and also considering the period of incarceration, this court is inclined to grant bail to the petitioners subject to the following conditions:

[a] Accordingly, the petitioners are 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 Special Court for Exclusive Trial of Cases under POCSO Act, Madurai 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 petitioners shall report before the respondent police daily at 10.30 A.M., for a period of four weeks and thereafter, as and when required for interrogation;

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

[e] the petitioners shall not abscond either during investigation or trial.

[f] the petitioners 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 petitioners 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



[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

07/03/2023

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

SJI

TO

1 THE JUDGE,  
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,  
MADURAI.

2 THE OFFICER INCHARGE,  
WOMEN PRISON, MADURAI.

3 THE OFFICER INCHARGE,  
DISTRICT PRISON, DINDIGUL.

4 THE INSPECTOR OF POLICE  
KODAKOVIL POLICE STATION,  
MADURAI DISTRICT.

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

+1 CC to M/s.D.KARTHIKRAJA, Advocate ( SR-3534[I] dated 07/03/2023 )

ORDER

IN

CRL OP(MD) No.4372 of 2023

Date :07/03/2023

RS/SBN/SAR-(07.03.2023) 3P 7C