



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 27/03/2023
PRESENT

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

CRL OP(MD) . No.5603 of 2023

Renuka

... Petitioner/Accused 2

Vs

The State rep.by
The Inspector of Police,
Nachiyapuram Police Station,
Sivagangai District.
Cr.No.80/2022.

... Respondent/Complainant

For Petitioner : M/s.Alwin Balan P.P.,
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. 80 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner /A2 who was arrested and remanded to judicial custody on 22.11.2022 for the offences under sections 5(m)(n) r/w.6,17 of POCSO Act and 3(a) r/w.4 of POCSO Act,2012 in Crime No.80 of 2022 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the defacto complainant and the petitioner got married and out of the wedlock they were blessed with three children. Thereafter there was family dispute between them, hence the petitioner herein had approached the Saamiyar and obtained Viboothi from him. Further on 22.10.2022 at about 19.00 hrs the petitioner herein went to the house of A1 along with her relative Stalin. The further allegation is that the petitioner and her children were undressed and they directed the petitioner's son to lay over her daughter rubbing their private parts and they both enjoyed seeing the same. Again they went to the very same house wherein A1 has kept his private part in the petitioner's daughter's mouth and asked her to suck. The petitioner



herein witnesses the same without any objection, hence the case to be registered.

3. Heard both sides and perused the materials available on record including the First Information Report.

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4. There are totally two accused in this case and the petitioner herein is arrayed as A2, who is none other the mother of the victim girls. The victim girls are aged about 8 and 10 years. A perusal of the statement recorded under section 164 of Cr.P.C reveals that the victim girl were brought to the house of the first accused who is a black magician. There was some mis-understanding between the petitioner herein and her husband. The first accused had directed the petitioner to remove her dress and took one of the victim. It was happened on two occasions. Therefore the entire crime was committed by the first accused utilizing the said circumstances of misunderstanding between the petitioner and her husband Further the petitioner being the mother of the victims should not have brought the children to the first accused. Further in this case investigation has been completed and final report has been filed before the concerned Court. Taking into consideration the facts and submissions made by the learned counsels and also 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 Special Court for the Exclusive trial of cases under the POCSO Act, Sivagangai 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.

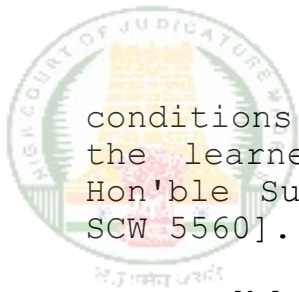
[c] the petitioner shall report before the trial Court on all working days at 10.30 am., until further orders.

[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 or 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/-

27/03/2023

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/03/2023

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

AAV

TO

- 1 THE JUDGE,
SPECIAL COURT FOR THE EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT,
SIVAGANGAI.
- 2 THE OFFICER INCHARGE,
WOMEN PRISON, PARAMAKUDI.
- 3 THE INSPECTOR OF POLICE,
NACHIYAPURAM POLICE STATION,
SIVAGANGAI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.ALWIN BALAN P.P. Advocate SR.No.4947

ORDER

IN

CRL OP(MD) No.5603 of 2023

Date :27/03/2023

SA/SBN/SAR. /27.03.2023/3P/6C