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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 20/04/2023

PRESENT

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

CRL OP(MD) . No.6254 of 2023

Sivayogaraja

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station, Kanyakumari,
Kanyakumari District.
(In Crime No.31/2022)

... Respondent/Complainant

For Petitioner : M/s.Senguttuarasan 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.31 of 2022 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 22.10.2022 for the offences punishable under Sections 342 of IPC and Section 3(A), 4, 5(j)(ii) and 6 of POCSO Act in Crime No.31 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution, as per the de-facto complainant, is that on 27.03.2022, the accused has committed penetrative sexual assault on the victim girl due to which, she became pregnant and subsequently, delivered a child. Hence, the case

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

4. It is seen that the victim is aged about 17 years. The petitioner had committed aggravated penetrative sexual assault on



the minor victim aged about 17 years due to which she got injured. The petitioner is a married man.

5. The learned counsel for the petitioner would submit that the petitioner is in judicial custody from 22.10.2022. He would further submit that the petitioner has to mobilize funds to conduct trial and he may be granted interim bail.

6. In this case investigation has been completed and the case has been taken up for trial in Spl.S.C.No.125 of 2022 on the file of the learned Sessions Judge, Special Court for trial of cases under POCSO Act, Nagercoil, Kanyakumari. Taking into consideration all the above the facts and submissions made by the learned counsels and also the period of incarceration this court is inclined to grant interim bail to the petitioner till 29.07.2023, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on interim bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two blood related sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for trial of cases under POCSO Act, Nagercoil, Kanyakumari 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 Sessions Judge, Special Court for trial of cases under POCSO Act, Nagercoil, Kanyakumari on all working days 10.30 A.M. and 5.30P.M., 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 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.



[I] the petitioner shall surrender before the trial Court on
31.07.2023 @ 10.30 am., without any fail.

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20/04/2023

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20/04/2023

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

AAV

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR TRIAL OF CASES UNDER POCSO ACT,
NAGERCOIL, KANYAKUMARI.
2. THE OFFICER IN CHARGE,
SUB JAIL, NAGERCOIL.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KANYAKUMARI,
KANYAKUMARI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.SENGUTTUARASAN P, Advocate (SR-6206[I] dated
20/04/2023)

ORDER
IN
CRL OP(MD) No.6254 of 2023
Date :20/04/2023

RK/SSS/SAR-(20/04/2023) 3P/6C