



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 12/04/2023
PRESENT

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

CRL OP(MD) . No.6775 of 2023

Mohamed Ismail

... Petitioner/Accused

Vs

The State rep.by
The Inspector of Police,
Melapalayam Police Station,
Tirunelveli District.
Crime No. 105/2023.

... Respondent/Complainant

For Petitioner : M/s.Suyambulinga Bharathi.K,
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. 105 of 2023 on the file of the respondent police.

ORDER : The Court made the following order :-

The petitioner /accused who was arrested and remanded to judicial custody on 06.03.2023 for the offences under sections 5(1), 6 of POCSO Act and section 506(ii) of IPC in Crime No.105 of 2023 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the victim girl has been working in the Magic Studio from 06.02.2023 as Photographer. The victim girl's sister has also been working in the said studio. The petitioner/accused is the owner of the said studio. Since the second day of the girl's employment the petitioner/accused has been speaking wrong with the girl. At noon when the girl is alone in the studio the petitioner herein hugged and kissed her and tried to sexually assault her, hence the case.

3. Heard both sides and perused the materials available on record including the First Information Report and the statement of the victim recorded under section 164 of Cr.P.C



4. It is seen that the victim girl was working in the petitioner's studio and infact her mother was also working the same studio for the past few years and there her elder sister was working in the same studio. According to the petitioner the mother of the victim had borrowed a sum of Rs.3,00,000/- from the petitioner and when the petitioner demanded to repay the said amount her mother under take to repay the same during the month of February 2023 and thereafter they planned and lodged the present false complaint as against the petitioner. Even according to the case of prosecution when the victim joined in the photo studio run by the petitioner on 06.02.2023 on the very next day the petitioner attempted to misbehave with her, whereas complaint has been lodged only on 06.03.2023. When the petitioner misbehaved with the victim girl no prudent women will come to the same studio for job. It is also seen that the entire family members mother and elder sister of the victim were working in the same studio . A perusal of the statement recorded under section 164 of Cr.P.C reveals the fact that the petitioner only touched the body of the victim. 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 blood related sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli 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 respondent police daily at 10.30 A.M. and 5.30P.M., for a period of two weeks and thereafter as and when required for interrogation.

[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



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

sd/-

12/04/2023

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12/04/2023

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

AAV

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
- 2 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUNELVELI DISTRICT.
- 3 THE INSPECTOR OF POLICE,
MELAPALAYAM POLICE STATION,
TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.SUYAMBULINGA BHARATHI.K Advocate SR.No.5721

ORDER

IN

CRL OP(MD) No.6775 of 2023

Date :12/04/2023

SA/VR/SAR. /12.04.2023/3P/6C