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CRL OP(MD).



23

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 18/05/2023

PRESENT

The Hon`ble Mrs.Justice T.V.THAMILSELVI

CRL OP(MD) . No.9215 of 2023

Palanisamy

... Petitioner/Sole Accused

Vs

State rep. by
The Inspector of Police,
Awps- Tallakulam Police Station,
Madurai District.
(Crime No.58 of 2022).

... Respondent/Complainant

For Petitioner : M/s.Vasantham Yugesh.S,
Advocate.

For Respondent : Mr.SS.Madhavan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.58 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole Accused, who was arrested and remanded to judicial custody on 19.09.2022 for the offences punishable under Sections 9(m) and 10 of POCSO Act in Crime No.58 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 17.09.2022 at about 06.30 pm., the de-facto complainant's minor daughter was sexually assaulted by the petitioner, while she was playing opposite to her house. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that this is the petitioner's fourth application for bail and the earlier applications were dismissed by this Court. The petitioner is in judicial custody from 19.09.2022 onwards, hence, he prayed for



4.The learned Government Advocate (Crl.Side) appearing for the respondent raised objection stating that this is the petitioner's fourth application for bail and 164 Cr.P.C statement of the victim girl was recorded and she has categorically stated about the acts committed by the petitioner in the statement. The investigation has been completed and the final report has already been filed and the same has been taken on file before the concerned Court.

5.Taking into consideration the facts and circumstances of the case and also taking note of the period of incarceration and also the facts that investigation has been completed and the final report has already been filed and the same has been taken on file before the concerned Court, 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.25,000/- (Rupees Twenty Five Thousand only) with two sureties (of which, one shall be a blood related surety) each for a like sum to the satisfaction of the learned Special Judge, POCSO Court, 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] after coming out from prison, within two days, the petitioner shall file an undertaking affidavit before the learned Special Judge stating that he will not have any communication with the victim girl in future, failing which, the bail already granted shall stand dismissed automatically;

[d] the petitioner shall report before the respondent police daily at 10.30 A.M., until further orders.

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

[f] the petitioner shall not abscond either during investigation or trial.

[g] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[h] 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



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

sd/-
18/05/2023

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19/05/2023

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

SJI

TO

1. The Special Judge, POCSO Court, Madurai.
2. Do-Through The Chief Judicial Magistrate,
Madurai District.
3. The Superintendent, Central Jail, Madurai.
4. The Inspector of Police,
Awps- Tallakulam Police Station,
Madurai District.
5. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1 CC to M/s.VASANTHA YUGESH.S, Advocate (SR-7598[I] dated
19/05/2023)

ORDER
IN
CRL OP(MD) No.9215 of 2023
Date : 18/05/2023

NA/CG/SAR-3/19.05.2023/3P/7C