



CRL OP(MD). No.14408 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 08/08/2023

PRESENT

The Hon`ble Mr.Justice G.ILANGO VAN

CRL OP(MD). No.14408 of 2023

S.Manoharan

... Petitioner / Accused No.1

Vs

State represented by
The Inspector of Police,
All Women Police Station,
Kanyakumari.
in Crime No.04 of 2023.

... Respondent/Complainant

For Petitioner : M/s.N.ANANTHA PADMANABHAN
Senior Counsel
for APN LAW ASSOCIATES

For Respondent : Mr.B.NAMBISELVAN
Additional Public Prosecutor

For Intervener : Mr.M.ANANTH KUMAR, Advocate

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C

PRAYER :- For Anticipatory Bail in Crime No. 4 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Accused No.1, apprehending arrest at the hands of the respondent police for the alleged offence punishable under Sections 9(m), 9(1), 10 and



CRL OP(MD). No.14408 of 2023

17 of POCSO Act, 2012 and Section 506(i) of IPC in Crime No.04 of 2023, on the file of
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the respondent police, seeks anticipatory bail.

2. The case of the prosecution in brief is that, the victim girl is aged about 11 years. She is studying 6th standard in Amirtha Vidhyalaya Higher Secondary School, Kanyakumari. She is in the custody of her father namely Gnanaraj. The first accused was already married and living with his family. He was having illegal affair with the second accused Seethalakshmi who is the mother of the victim girl. On 10.06.2020, the second accused took the victim girl and his brother to Courtalam in the car owned by the first accused. In the park, the first accused subjected the victim girl to sexual assault and harassment. Again on 10.09.2022, the first accused misbehaved with the victim girl and sexually assaulted her. That was reported on 10.01.2023 at about 5.10 p.m. The victim girl was criminally intimidated by accused 1 and 2. After completing the investigation, final report was filed against this petitioner charging him under Sections 9(m), 9(1) read with Section 10 and 17 of POCSO Act, 2023 and Section 506(i) of IPC, showing this petitioner as absconding accused. Seeking anticipatory bail, this petition has been filed by the petitioner repeatedly.

3. The learned Additional Public Prosecutor would submit that all the three earlier anticipatory bail applications came to be dismissed by this Court noting the grievous nature of the allegations that has been made against him and this is the



CRL OP(MD). No.14408 of 2023

fourth anticipatory bail filed on the ground that in the earlier occasion, proper facts were not brought to the notice of this Court.

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4. The learned Senior Counsel appearing for the petitioner would submit that this petitioner is the biological father of the victim girl. He is also ready to undergo DNA test to prove the same. Apart from that it is also submitted that the second accused namely Seethalakshmi made a complaint against her husband namely Gnanaraj stating that she was subjected to ill treatment and harassment by Gnanaraj. However, she lodged a complaint on 03.02.2023 which was also enquired in C.S.R.No.54 of 2023. Since no proper action was taken against the same, another complaint was given on 14.02.2023. According to the learned Senior Counsel for the petitioner as a counter blast to this complaint which was given by the second accused, this false complaint has been given as if the victim girl was subjected to frequent sexual harassment by this petitioner on various occasions. The complaint was given on 12.02.2023 which according to the learned Senior Counsel for the petitioner, is subsequent to the complaint given by the second accused on 03.02.2023. Apart from that the factual aspects are also mentioned.

5. It is further stated by the learned Senior Counsel that that this petitioner was in love with the second accused even prior to the marriage between the second accused and one Gnanaraj. Because of the above said intimacy, the victim girl was



CRL OP(MD). No.14408 of 2023

born to the second accused and to himself. But later, the marriage proposal failed and both of them were married to other persons. But however, the victim girl was treated by his wife also as their own child. But however, the husband of the second accused citing the above issue was frequently torturing using victim girl, this false case has been foisted by the husband of the second accused namely Gnanaraj.

6. These are the factual aspects which cannot be taken into consideration at this stage. Investigation is completed and final report is also filed showing this petitioner as absconding accused. So the question which arises for consideration is whether anticipatory bail is required at this stage or not. Eventhough it is submitted by the learned Additional Public Prosecutor that earlier application was dismissed considering the grievous nature of the allegations, no fresh ground has been made by this petitioner. The offence alleged against the petitioner are punishable up to 7 years of imprisonment. The Hon'ble Supreme Court in the case of Satender Kumar Antil Vs Central Bureau of Investigation and others, has formulated guidelines for considering the bail application. The offences punishable with imprisonment of 7 years or less is categorized as 'A'.

" A) Offences punishable with imprisonment of 7 years or less not falling in category B & D.

B) Offences punishable with death, imprisonment for life, or



CRL OP(MD). No.14408 of 2023

imprisonment for more than 7 years.

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C) Offences punishable under Special Acts containing stringent provisions for bail like NDPS (Section 37), PMLA(Section 45), UAPA (Section 43D(5), Companies Act, 212(6), etc.

D) Economic offences not covered by Special Acts.

7. If accused is not arrested during the course of investigation and co-operated throughout the investigation, then there is no need to forwarding the accused along with the final report. So the offence that has been alleged against the petitioner is punishable up to 7 years but not below 5 years. So there is no need to arrest this petitioner and produce him before the trial Court along with the final report. He can very well appear before the trial Court and execute bond under Section 88 of Cr.P.C., at the satisfaction of the Special Court.

8. With the above said direction, this petition is disposed of.

sd/-
08/08/2023

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/08/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



CRL OP(MD). No.14408 of 2023

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TO
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1 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVELY TRIAL OF CASES
UNDER THE POCSO ACT CASES, NAGERCOIL.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, KANYAKUMARI.

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

+1 CC to M/s.M.ANANTHKUMAR, Advocate (SR-11977[I] dated 08/08/2023)

ORDER IN
CRL OP(MD) No.14408 of 2023
Date :08/08/2023

SA/BUC/SAR. /18.08.2023/6P/5C

Madurai Bench of Madras High Court is issuing certified copies in this format from 17/07/2023.