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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 05/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.17737 of 2023

Raja,

... Petitioner/ Accused

Vs

The State rep. by
The Inspector of Police,
Elumalai Police Station,
Madurai District.

(Crime No.123 of 2023).

U/s 3,4,5(l),5(m),6 of POCSO Act and
323,363,377 of IPC

... Respondent/Complainant

For Petitioner : M/s.Suresh.M,
Advocate.

For Respondent : M/s.M.Aasha
Government Advocate(Crl.Side)

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

PRAYER :-

For Bail in Crime no.123 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

<https://www.mhc.tn.gov.in/judis>



18.06.2023 for the alleged offences punishable under Sections 3,4,5(l),5(m),6 of POCSO Act and Sections 323,363,377 of IPC in Crime No.123 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner herein sexually assaulted the minor victim aged about 8 years. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false case has been foisted against him. He would further submit that the petitioner in judicial custody from 18.06.2023 and hence, he seeks bail.

4. The learned Government Advocate(Crl.Side) appearing for the respondent Police would submit that the petitioner herein sexually assaulted the minor victim aged about eight years. She also produced the statement of the victim recorded under Section 164 of Cr.P.C and objected to grant bail to the petitioner. She would further submit that the investigation has been completed and final report has been filed before the concerned Court and it is yet to be taken on file.

5. Heard both sides and perused the materials available on record.



6. On perusal of the records it is noticed that in pursuance of the complaint given by the defacto complainant a case has been registered in crime No. 123 of 2023 for the offences under Sections 3,4,5(l),5(m),6 of POCSO Act and Sections 323,363,377 of IPC. On perusal of the statement recorded under Section 164 of Cr.P.C it is revealed that the petitioner has put his private part in the mouth of the victim and no other allegation has been levelled against him. On seeing one Raja the petitioner left the victim girl in her house.

7. Taking into consideration the facts and circumstances of the case and also taking into consideration the period of incarceration and also the fact that investigation has been completed and the case is ripe for trial and also considering all other aspects, 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 Exclusive trial of cases under POCSO Act Cases, Madurai and on further conditions that:

(ii) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;



(iii) the petitioner shall appear before trial Court on receipt of summons.

(iv) the petitioner shall not tamper with evidence or witness;

(v) the petitioner shall not abscond during trial.

vi) On breach of any of the aforesaid conditions, the learned 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
05/10/2023

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05/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

1. The Special Court for Exclusive trial of cases under POCSO Act Cases, Madurai
2. The Officer Incharge, District Prison, Theni
3. The Inspector of Police,
Elumalai Police Station,
Madurai District.



4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

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ORDER
IN
CRL OP(MD) No.17737 of 2023
Date :05/10/2023

SSA/05.10.2023/5P/5C

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