



CRL OP(MD). No.17852 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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Kutti Muthu

... Petitioner/ Accused No.3

Vs

State Rep.by
The Inspector of Police,
Kurumbur Police Station,
Thoothukudi District.
(Crime No.71 of 2023).

... Respondent/Complainant

For Petitioner : M/s.Jeyakarthik M.S., Advocate.
For Respondent : Mr.R.M.S.Sethuraman,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.71 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/ A3, who was arrested and remanded to judicial custody on on 11.07.2023 for the alleged offence punishable under Sections 376(2)(g) of IPC @ 376(2)(g), 114 of IPC in Crime No.71 of 2023, on the file of the respondent police, seeks bail.



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2. The case of the prosecution is that the petitioner took the victim in an auto to the remote place and had sexual relationship with her. Thereafter his three friends came there and among them one person also has sexual relationship with the victim and thereafter they left the place and then the defacto complainant has lodged the present complaint. Hence the case.

3. The learned counsel appearing for the petitioner would contend that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that during identification parade also the petitioner has not identified this petitioner and as per the allegation in the First Information Report this petitioner has not sexually assaulted the victim. Further the petitioner is in custody from 11.07.2023, hence he seek bail.

4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that investigation has been completed and final report has been filed before the learned Judicial Magistrate No.I, Srivaikundam and the same was taken on file in PRC No.112 of 2023. Further this petitioner was not identified by the victim.

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

6. On perusal of the records it is noticed that on 09.07.2023 at about 00.30hrs while the victim was standing before the Church Gate A1 came there in an auto



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bearing Reg.No.TN 72 AE 0838 and took her on the assurance to leave her in a safety place, but without taking her to the safety place he took her to the remote place and committed sexual assault and thereafter had taken her to some other place where three persons joined there and among them one person committed sexual assault. Thereafter she gave complaint and a case was registered. Subsequently identification parade has been conducted and the victim has not identified the petitioner herein and she identified A1 and A2.

7. Considering the facts and circumstances and also taking into consideration the period of incarceration and also considering the fact that the victim has not identified this petitioner in the identification parade and also the fact investigation has been completed and final report filed before the concerned Court, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(i) 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 learned Judicial Magistrate No.I, Sriviakundam 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;



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(iii) the petitioner shall appear before the 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/-
06/10/2023

/ TRUE COPY /

06/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

1 THE JUDICIAL MAGISTRATE NO.I, SRIVAICKUNDAM.

2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE, TIRUNELVELI DISTRICT.

3 THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI,
TIRUNELVELI.

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



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4 THE INSPECTOR OF POLICE, KURUMBUR POLICE STATION,
THOOTHUKUDI DISTRICT.

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

+1 CC to M/s.M.S.JEYAKARTHIK, Advocate (SR-14765[I] dated 06/10/2023)

ORDER
IN
CRL OP(MD) No.17852 of 2023
Date :06/10/2023

RS//SAR-(06.10.2023) 5P 7C
Madurai Bench of Madras High Court is issuing
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