



CRL OP(MD). No.18319 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 12/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.18319 of 2023

Krishnamoorthy

... Petitioner/Sole Accused

Vs

The State rep.by,
The Inspector of Police,
All Women Police Station,
Rajapalayam,
Virudhunagar District.,
Crime No.24/2023..

... Respondent/Complainant

For Petitioner : M/s.Karuppasamy Pandiyan.G,
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.24/2023 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 29.07.2023 for the alleged offence punishable under Sections 7 r/w. 8 of POCSO



CRL OP(MD). No.18319 of 2023

Act in Crime No.24 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 has committed penetrative sexual assault on the victim. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner has not committed any sexual assault and now the petitioner is in jail from 29.07.2023, hence he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that victim is aged about 15 years and the petitioner herein and tried to commit sexual assault on the minor victim, hence he objected to grant bail to the petitioner. However she fairly concedes that the investigation has been completed and final report has been filed before the concerned Court.

5. On perusal of the statement of the victim recorded under Section 164 of Cr.P.C., it is revealed that there is no penetrative sexual assault. Taking into consideration the nature of allegations and also taking into consideration the period



CRL OP(MD). No.18319 of 2023

WEB COPY

of incarceration and also taking into consideration the fact that investigation has been completed and final report has been filed before the concerned Court and also taking into consideration the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40 and the nature of the offence alleged by the petitioner, this Court is inclined to grant bail to the petitioner.

6. 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 POCSO Act Cases, Virudhunagar District at Srivilliputhur 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 the trial Court on receipt of summons

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



CRL OP(MD). No.18319 of 2023

(v) the petitioner shall not abscond during trial.

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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/-
12/10/2023

/ TRUE COPY /

12/10/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV

TO

1. THE JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
VIRUDHUNAGAR DISTRICT AT SRIVILLIPUTHUR.



CRL OP(MD). No.18319 of 2023

2. THE SUPERINTENDENT, SUB JAIL, VIRUDHUNAGAR.

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3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
RAJAPALAYAM, VIRUDHUNAGAR DISTRICT,.

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

+1 CC to M/s.G.KARUPPASAMY PANDIYAN, Advocate (SR-15038[I] dated 12/10/2023)

ORDER
IN

CRL OP(MD) No.18319 of 2023

Date :12/10/2023

RK /(12/10/2023) 5P / 6C

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