



CRL OP(MD). No.19011 of 2023

WEB COPY

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

Date : 20/10/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.19011 of 2023

Kaleeshwaran

... Petitioner / Sole Accused

Vs

The State rep by
The Inspector of Police,
All Women Police Station,
Vadamadurai,
Dindigul District.
(Crime No. 16 of 2023.)

... Respondent / Complainant

For Petitioner : Mr.S.Sarvagan Prabhu, 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. 16 of 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 25.09.2023 for the alleged offences punishable under Sections 7,8 of POCSO Act



CRL OP(MD). No.19011 of 2023

and Section 506(i) of IPC in Crime No.16 of 2023, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that due to matrimonial dispute the defacto complainant and his wife were living separately for the past five years and they were blessed with two children. The wife of the defacto complainant is living with two children at periyasamy complex. During the stay the wife of the defacto complainant had developed illegal intimacy with the accused. When the illegal contact came to the knowledge of the family of the wife of the defacto complainant the children were taken by the family of the wife of the defacto complainant . In the meantime the wife of the defacto complainant eloped with the accused and the childrens are in the custody of the mother of the defacto complainant. On 27.07.2023 the mother-in-law of the defacto complainant and brother-in-law met the daughter of the defacto complainant aged about 10 years, at that time she informed that at the time of stay with the petitioner and her mother the petitioner in a drunken mood tried to misbehave with her. 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 complaint has been given by the father of the victim. The mother of the victim eloped with the accused, therefore the victim



CRL OP(MD). No.19011 of 2023

WEB COPY

was left in their grand parents home hence on 27.07.2023 the defacto complainant went to the house of his father-in-law to see the children at that time the victim informed about the sexual misbehaviour of the accused/petitioner. The complaint was given on 25.09.2023 and based on that complaint the petitioner was arrested. He would further submit that due to some dispute between the father and mother the present complaint has been given and the petitioner is in custody from 25.09.2023, hence he seeks bail.

4.The learned Government Advocate(Crl.Side) objected to grant bail to the petitioner and also produced the copy of the statement of the victim recorded under Section 164 of Cr.P.C.

5. This Court also perused the allegations in First Information Report and the statement of the victim recorded. It is noticed that the mother of the victim eloped with the petitioner herein and the childrens are in the custody of their grand parents. The defacto complainant visited the house of the children on 27.07.2023 and at that time the victim informed about the sexual assault made by the accused, therefore complaint was given on 25.09.2023 after two months. In the statement of the victim recorded under Section 164 of Cr.P.C, the victim stated that the accused misbehaved with her. It is noticed that there is no aggravated penetrative sexual assault but the petitioner misbehaved with the victim.



CRL OP(MD). No.19011 of 2023

WEB COPY

6. Considering the facts and circumstances and also considering the period of incarceration and also the delay in filing the complaint and also the fact that the investigation has been completed and final report filed before the concerned Court and also taking into consideration of the principle stated by the Honourable Supreme Court in Sanjay Chandra and others vs. CBI reported in (2012)1 SCC 40, 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 Special Court for Exclusive trial of Cases under POCSO ACT, Dindigul 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;

(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



CRL OP(MD). No.19011 of 2023

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/-
20/10/2023

/ TRUE COPY /

20/10/2023
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,
Dindigul.

2.The Inspector of Police,
All Women Police Station,
Vadamadurai, Dindigul District.

3.The Officer Incharge,
District Prison,
Dindigul.

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

+1 CC to M/s.S.SARVAGAN PRABHU, Advocate (SR-15500[I] dated 20/10/2023)



WEB COPY



CRL OP(MD). No.19011 of 2023

ORDER
IN
CRL OP(MD) No.19011 of 2023
Date :20/10/2023

ED/ /SAR- (20/10/2023) 6P / 6C

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