



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)
Date : 24/01/2023
PRESENT

The Hon`ble Mr.Justice A.D.JAGADISH CHANDIRA

CRL OP(MD) . No.21776 of 2022

Kamaleshkumar

... Petitioner/Accused No. Not Known

Vs

The State rep.by
The Inspector of Police,
Sivakasi Town Police Station,
Viruthunagar District.
Cr.No.250/2022.

... Respondent/Complainant

For Petitioner : M/s.Ganesh Kumar.G,
Advocate.

For Respondent : Mr.T.Senthilkumar,
Additional Public Prosecutor

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

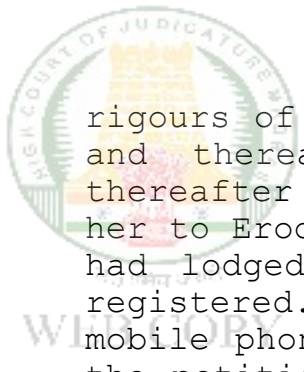
PRAYER :- For Bail in Crime No. 250/2022 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner/accused, who was arrested and remanded to judicial custody on 13.07.2022 for the offence punishable under Sections 366 of IPC and section 5(1),6 of POCSO Act in Crime No.250 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that her minor daughter(XXXX)aged about 17 years was found missing on 11.07.2022. Based on that complaint a case in Crime No. 250 of 2022 came to be registered. During investigation it came to light that the petitioner who was working with the victim girl had loved her and had penetrative sexual assault and later taken her from the lawful guardianship of her mother to Erode and later the victim girl was secured after 56 days.

3. The learned counsel appearing for the petitioner would submit that the petitioner is aged about 20 years and he is innocent. He would further submit that the petitioner and the victim girl were working in the same spinning mill and during such time the petitioner without understanding the consequences and



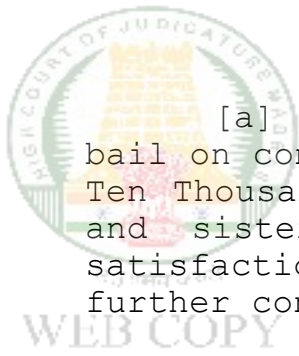
rigours of POCSO Act had developed love affair with the victim and thereafter they had consensual sexual relationship and thereafter on the instigation of the victim the petitioner had taken her to Erode and while they were in Erode, the mother of the victim had lodged complaint based on which the present case has been registered. Later the victim had contacted her mother through mobile phone and coming to know about the registration of the case the petitioner had brought the victim and left in the bus stand in her native place. He would further submit that in this case investigation has been completed and final report has been filed before the Special Court for Exclusive Trial of cases under the POCSO Act, Srivilliputhur and the same has been taken cognizance in S.C. No.141 of 2022 and the petitioner is also ready to abide by any stringent conditions that may be imposed on him. He would further submit that though the petitioner hails from Bihar the entire family members of the petitioner are working in a spinning mill at Karur. He would also submit that the petitioner's family members are ready to stand as surety and the petitioner also understands that the family members of the victim are ready to compromise the matter with the family members of the petitioner. He would further submit that the petitioner is in custody from 13.07.2022, thereby he seeks bail.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner had kidnapped the minor victim girl and he also committed penetrative sexual assault on the victim girl and the statement of the victim girl was also recorded under Section 164 of Cr.P.C. He would further submit that the now the case is pending trial before the Special Court for Exclusive Trial of cases under the POCSO Act, Srivilliputhur and the same has been taken cognizance in S.C. No.141 of 2022. He would further submit that since the petitioner is from Bihar there is every possibility of absconding and he may not be available for trial, hence he objected for grant of bail.

5. At this juncture, the learned counsel for the petitioner would submit that the mother and sister of the petitioner are ready to stand as surety for him and the petitioner is also ready to abide by any stringent condition that may be imposed by this Court.

6. Heard. Perused the materials available on record including the First Information Report and the statement of the victim recorded under Section 164 of Cr.P.C.

7. Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the age of the petitioner and the period of incarceration 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 (sureties must be the mother and sister of the petitioner) each for a like sum to the satisfaction of the Fast Track Mahila Court, Srivilliputhur and on further conditions that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

[c] the petitioner shall report before the Special Court for Exclusive Trial of cases under the POCSO Act, Srivilliputhur on all working days at 10.30 am., and on every Saturday at 5.30 pm., before the respondent police until further orders.

[d] the petitioner shall not commit any offences of similar nature.

[e] the petitioner shall not abscond either during investigation or trial.

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Judicial 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

24/01/2023

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

AAV

TO

1 THE JUDGE,
FAST TRACK MAHILA COURT, SRIVILLIPUTHUR.

2 THE JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER THE POCSO ACT, SRIVILLIPUTHUR.



3 THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.

4 THE INSPECTOR OF POLICE,
SIVAKASI TOWN POLICE STATION,
VIRUTHUNAGAR DISTRICT.

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

**ORDER
IN**

CRL OP(MD) No.21776 of 2022
Date :24/01/2023

SA/BUC/SAR. /24.01.2023/4P/6C