



CRL OP(MD). No.19670 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 29/11/2023

PRESENT

The Hon`ble Mr.Justice V.SIVAGNANAM

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Muthupandian @ Muthupandi,

... Petitioner/Sole Accused

Vs

The State rep.by

The Inspector of Police,

Peraiyur Police Station,

Madurai District.

(Crime No.169 of 2023).

... Respondent/Complainant

For Petitioner : M/s.MUNIYANDI.S,

Advocate.

For Respondent : Mrs.M.AASHA,

Government Advocate (Crl.Side)

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

PRAYER :- For Bail in Crime No.169 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 01.09.2023 for the alleged offences punishable under Sections 5(l),5(j)(ii),5(n) and 6 of POCSO Act in Crime No.169 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 on false promise of marrying the victim had committed penetrative sexual assault on the minor victim due to which she became pregnant and delivered a male child and later the petitioner refused to marry the victim. 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 the petitioner is not responsible for the pregnancy of the victim. He would further submit that the petitioner is in custody from 01.09.2023, hence he seeks bail.

4.The learned Government Advocate(Crl.Side) would submit that the petitioner on false promise had committed penetrative sexual assault on the minor victim due to which she became pregnant and delivered a male child and later the petitioner refused to marry the victim and the child was also sold to some other person for which another case has also been registered, hence he objected to grant bail to the petitioner.

5. In the First Information Report it is stated that one Selvakumar has sexually assaulted the victim but in the 164Cr.P.C statement the victim has stated that one Muthupandi had sexual intercourse with her and the child was born . Further the the child was also now sold to some other person for which another case has also been



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registered. Under these circumstances DNA test was not conducted to verify who is the father of the new born child. Considering the facts and circumstances and also considering the period of incarceration 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, 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 Sessions Judge, Principal Special Court for Exclusive trial of Cases under POCSO Act, 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 the trial Court once in 15 days at 10.30 am.,until further orders.

(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



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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/-
29/11/2023

/ TRUE COPY /

/11/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

AAV
TO
1 THE SESSIONS JUDGE,
PRINCIPAL SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, MADURAI.

2 THE OFFICER INCHARGE,
DISTRICT JAIL, VIRUDHUNAGAR.

3 THE INSPECTOR OF POLICE,
PERAIYUR POLICE STATION,
MADURAI DISTRICT.

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



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+1 CC to M/s.S.MUNIYANDI, Advocate (SR-17029[I] dated 29/11/2023)

ORDER
IN
CRL OP(MD) No.19670 of 2023
Date :29/11/2023

SA/SAR. /29.11.2023/5P/6C

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