



CRL OP(MD). No.20001 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 06/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

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(*)()Sam Benjamin @ Sam @ Shyam @ Shyam Benjamin**

... Petitioner/Sole Accused

Vs

**1.The Inspector of Police,
Koodankulam Police Station,
Tirunelveli District.
Crime No.326 of 2017**

... 1st Respondent/Complainant

2.Saipraba

... 2nd Respondent/Victim

For Petitioner : Mr.C.Susikumar, Advocate.

For Respondent : Mrs.M.Aasha, Government Advocate (Crl.Side)

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

PRAYER :-

To enlarge the petitioner on bail in Spl.C.C.No.188 of 2019 on the file of the Sessions Judge, Special Court for POCSO Cases, Tirunelveli.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial



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custody on 21.01.2022 for the alleged offence punishable under Section 306 r/w 511, 451, 294(b) of IPC and Section 11(iv) r/w 12 of Protection of Children From Sexual Offences Act, 2012, in Crime No.326 of 2017, on the file of the respondent police, seeks bail.

2.Earlier the petitioner was arrested and released on bail. Thereafter due to his illness, the petitioner did not appear before the trial Court on 29.11.2021, hence, Non Bailable Warrant was issued on the same day itself. The petitioner was arrested on execution of Non Bailable Warrant on 21.01.2022.

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 and the defacto complainant loved each other at the time of occurrence. Now, the petitioner got married another woman and has two children. The victim girl also got married another man and living happily. Now, he filed re-call petition under Section 311 Cr.P.C., Further the petitioner is in custody from 21.01.2022, hence he seek bail.

4.The learned Government Advocate (Crl.Side) opposing the bail petition would submit that if the petitioner is released on bail, he may abscond again. However, she fairly concedes that both petitioner and the defacto complainant got married another persons and living happily.



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5.Considering the nature of allegations made against the petitioner and also considering the period of incarceration and taking note of the fact that the petitioner and the defacto complainant got married another persons and living happily 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 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 own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) subject to the satisfaction of the learned Sessions Judge, Special Court for POCSO Cases, Tirunelveli and on further conditions that:

(i) the petitioner shall appear before the trial Court on receipt of summons.

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

(iii)the petitioner shall not abscond during trial.

(iv) 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].

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(v) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
06/12/2023

(*) Amended as per Order of this Court dt.18.12.2023 in CrI.MP(MD).17760/2023 in CrI.OP(MD).20001/2023.

(**) Amended as per Order of this Court dt.05.01.2024 in CrI.MP(MD).74/2024 in CrI.OP(MD).20001/2023.

Further two weeks time is granted to the petitioner to comply with the conditions imposed by this Court from today as last chance

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08/01/2024
Sub-Assistant Registrar
(C.S.I /II /III /IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dss

TO

TO BE SUBSTITUTED WITH THE ORDER DT.18/12/2023 IS ALREADY DESPATCHED

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO CASES,
TIRUNELVELI.

2 THE INSPECTOR OF POLICE,
KODANKULAM POLICE STATION,
TIRUNELVELI DISTRICT.

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3 THE SUPERINTENDENT,
CENTRAL PRISON,
PALAYAMKOTTAI.

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

+1 CC to M/s.C.SUSI KUMAR, Advocate (SR-276[I] dated 05/01/2024)

ORDER
IN

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Date :06/12/2023

RS//SAR-(06.12.2023) 5P 6C
AAV
SA/SAR. /21.12.2023/5P/6C

GNS
PKP/SAR- /08.01.2024/ 5P/ 6C
Madurai Bench of Madras High Court is issuing
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