



CRL OP(MD). No.22379 of 2023

WEB COPY

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

Date : 12/12/2023

PRESENT

The Hon`ble Mr.Justice V. SIVAGNANAM

CRL OP(MD). No.22379 of 2023

Yosape

... Petitioner / Accused No.1

Vs

The Inspector of Police,
All Women Police Station,
Thoothukudi,
Thoothukudi District,
(Crime No.30/2023.)

... Respondent/Complainant

For Petitioner : Mr.K.Suyambulinga Bharathi, Advocate
for S. Ananthamurugan, Advocate.

For Respondent : Mr.,Rms.,Seethuraman,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.30/2023 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



CRL OP(MD). No.22379 of 2023

08.09.2023 for the alleged offence punishable under Sections 362, 376(D) and 506(i)

WEB COPY

IPC, in Crime No.30 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 06.09.2023, when the defacto complainant was along with her lover, the petitioner along with other accused kidnapped her from the place and raped her and they have also criminally intimidated her. Hence, the case.

3.The learned counsel appearing for the petitioner submitted that in the FIR the allegation is two un identified persons committed sexual offence upon the victim, but, the said two un-identified persons were not identified by her. Apart from that in the detention proceedings, the detaining authority examined the alleged defacto complainant viz., Kaleeswari and not satisfied with the statement and set aside the detention order. In that circumstances, without identified by the victim the petitioner is in prison from 08.09.2023 and hence, he seeks bail.

4.The learned Additional Public Prosecutor appearing for the respondent conceded that the victim has not identified the petitioner / accused as on date as he committed the sexual assault upon her.

5. In pursuance of the complaint given by the defacto complainant for the offence under Sections 362, 376(D) and 506(i) IPC it is noticed that the allegation in the FIR that two un-identified persons, had come in the two wheeler and committed



WEB COPY

the sexual offence upon her, but, unfortunately, as on date the victim has not identified who committed the sexual assault upon her.

6. Considering the facts and circumstances and also considering the period of incarceration 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.

7. 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 Judicial Magistrate No.IV, Thoothukudi, and on further conditions that:

(i) the petitioner shall affix his photograph 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.

(ii) the petitioner shall appear before the trial Court on receipt of summons as directed by the trial Court.

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

(iv) the petitioner shall not abscond during trial.

(v) On breach of any of the aforesaid conditions, the learned Magistrate/Trial



CRL OP(MD). No.22379 of 2023

WEB COPY

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].

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

sd/-
12/12/2023

/ TRUE COPY /

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

TRP

To

1.The Judicial Magistrate No.IV,
Thoothukudi.

2.Do through the Chief Judicial Magistrate,
Thoothukudi District.

3.The Inspector of Police,
All Women Police Station,
Thoothukudi, Thoothukudi District.

4.The Superintendent,
Central Prison, Palayamkottai,
Tirunelveli District.



CRL OP(MD). No.22379 of 2023

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

+1 CC to M/s.S.ANANTHA MURUGAN, Advocate (SR-17603[I] dated 12/12/2023
)

ORDER
IN

CRL OP(MD) No.22379 of 2023
Date :12/12/2023

ED/ /SAR- (12/12/2023) 5P / 7C

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