



Crl.O.P.(MD) No.23534 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

[Criminal Jurisdiction]

Date : 28.12.2023

PRESENT

THE HON'BLE MR.JUSTICE R.SAKTHIVEL

Crl.O.P.(MD) No.23534 of 2023

Muthumani

... Petitioner / Sole Accused

Vs

State Represented by
The Inspector of Police,
Uthirakosamangai Police Station,
Ramanathapuram District.
[Crime No.31 of 2023]

... Respondent/Complainant

For Petitioner : Mr.D.Balamuruga Pandi,
Advocate

For Respondent : Mr.P.Kottaichamy
Government Advocate (Criminal side)

PRAYER: Criminal Original Petition filed under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail to the sole accused in Crime No.31 of 2023 on the file of the respondent police.



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ORDER : The Court made the following order :-

This Criminal Original Petition has been filed by the petitioner on 26.12.2023 under Section 439 of the Criminal Procedure Code, 1973 (Act No.2 of 1974) praying to grant bail.

2. The petitioner / sole accused was arrested and remanded to judicial custody on 14.05.2023 for the alleged offences punishable under Section 376(AB) of the Indian Penal Code, 1860 (Act No.45 of 1860) and Sections 5(m) r/w 6 of the Protection of Children from Sexual Offences Act, 2012 (Act No.32 of 2012) in Crime No.31 of 2023 on the file of the respondent police.

3. The case of the prosecution is that on 13.05.2023, the petitioner committed the offence of aggravated sexual assault on the minor victim girl, who is aged about 7 years. Hence, the case.

4. The learned counsel for the petitioner submitted that the petitioner is an innocent and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner is in judicial custody since 14.05.2023. He,



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therefore, prayed to grant bail to the petitioner.

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5. The learned Government Advocate (Criminal side) appearing for the respondent police submitted that the petitioner committed the offence of aggravated sexual assault on the minor victim girl aged about 7 years. Further, he submitted that trial commenced and six witnesses were examined, the entire process will be completed within short period. Accordingly, he raised objection to this petition. He further submitted that if bail is granted to the petitioner, he will cause threat to the defacto complainant and the witness and thereby he will cause delay the trial. Accordingly, the learned Government Advocate (Criminal side) strongly objected to the petition and prayed to dismiss the petition.

6. Heard on both sides.

7. The respondent police registered a case against the petitioner for the alleged offences under Section 376(AB) of IPC and Sections 5(m) r/w 6 of POCSO Act. In this case, the victim is about 7 years old. The date of occurrence is 13.05.2023. The case was registered on the same day. The petitioner was arrested and remanded to judicial custody on 14.05.2023. This Court has perused the statement of the victim girl



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recorded under Section 164 of Cr.P.C and the Medical Report. This Court was told that the trial has commenced and six witnesses were examined. The petitioner has been incarcerated nearly for the past 235 days. The petitioner has permanent residence and has deep roots in society. Hence, there is less possibility of absconding.

8.Considering the above facts and circumstances of the case and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner, however, subject to condition. Accordingly, bail is granted to the petitioner subject to the following conditions:

(i) The petitioner shall execute a bond for Rs.25,000/- (Rupees Twenty Five Thousand only) and furnish two sureties, of which, one surety shall be a blood relative, each for a like sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the satisfaction of the learned Sessions Judge (Fast Track Mahila Court), Ramanathapuram;

(ii) The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Judicial Magistrate shall obtain a copy of any one of identity proofs to ensure their identity;



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(iii) The petitioner shall stay at Virudhunagar District and sign before the Virudhunagar West Police Station, Virudhunagar District, daily at 05.00 p.m., until further orders;

(iv) The petitioner shall appear before the Trial Court on all hearing dates;

(v) The petitioner is granted exemption to appear before the Virudhunagar West Police Station on the date of hearing of the Sessions case so as to enable him to appear before the Sessions Court (Trial Court), Ramanathapuram;

(vi) The petitioner shall not, directly or indirectly, cause any threat to the defacto complainant and witnesses;

(vii) The petitioner shall not enter into the Kalakkudi Village, Uthirakosamangai, Ramanathapuram District until further orders;

(viii) The petitioner shall deposit the original passport before the Trial Court. In case, if the petitioner does not have passport, he shall file an affidavit to that effect before the Trial Court; and



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(ix) On breach of any of the aforementioned conditions, the learned Judicial Magistrate is entitled to pass appropriate orders against the petitioner in accordance with law as if the aforementioned conditions are imposed by themselves as laid down by the Hon'ble Supreme Court in P.K.Shaji Vs. State of Kerala [(2005)13 SCC 283].

9. Accordingly, this Criminal Original Petition is allowed subject to the conditions stated supra.

sd/-
28/12/2023

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29/12/2023
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

sjj

TO

- 1.The Sessions Judge (Fast Track Mahila Court), Ramanathapuram.
- 2.The Inspector of Police,
Uthirakosamangai Police Station,
Ramanathapuram District.
- 3.The Superintendent, Central Prison,
Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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The Inspector of Police,
Virudhunagar West Police Station,
Virudhunagar District.

+1 CC to M/s.D.BALAMURUGAPANDI, Advocate (SR-18382[I] dated 28/12/2023)

ORDER
IN
CRL OP(MD) No.23534 of 2023
Date :28/12/2023

RK (29/12/2023) 7P / 7C

Madurai Bench of Madras High Court is issuing certified copies in this format from
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