



CRL OP(MD). No.185 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 31/01/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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Balamurugan

... Petitioner/Sole Accused

Vs

State represented by

The Inspector of Police,

Thallakulam All Women Police Station,

Madurai District.

Crime No.40 of 2016.

... Respondent/Complainant

For Petitioner : Mr.G.Yogeshwaran,
Advocate.

For Respondent : Mr.B.Nambiselvan,
Additional Public Prosecutor.

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

PRAYER :-

For Bail in Crime No.40/2016 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 15.04.2023 on execution of Non-Bailable Warrant issued by the learned Sessions Judge, Principal Special Court for trial of cases under the POCSO Act, Madurai, for the offences punishable under Sections 5(l) r/w.6 of POCSO Act, 2012 and 506(i) IPC



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in Spl.S.C.No.38 of 2017, seeks bail.

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2. The case of the prosecution is that the accused and the defacto complainant are neighbors. The defacto complainant is a married woman and there was a illegal relationship between the defacto complainant and the petitioner. Due to that, the defacto complainant left her parental home on 16.12.2016 and went along with the petitioner. Thereafter, the defacto complainant and the petitioner were lived together and had sexual relationship. After some time, the defacto complainant came to know about the bad character of the petitioner, she left the petitioner. Hence, the present complaint has been registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. He would further submit that the petitioner co-operated with the trial proceedings in all hearings and due to non-appearance for some hearing, Non bailable warrant was issued against the petitioner on 15.04.2023. So, he was arrested and remanded to judicial custody on the same day. Further he would submit that the petitioner is ready to appear before the trial Court till completion of the trial. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent would



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submit that since it is a heinous offence, the trial Court issued the Non Bailable Warrant against the petitioner. If the petitioner is released on bail, he may abscond and there will be no progress in the trial. Hence, he vehemently objected to grant bail to the petitioner.

5. Heard the learned counsel on either side.

6. Considering the facts and circumstances of the case and also considering the period of incarceration, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Sessions Judge, Principal Special Court for trial of Cases under the POCSO Act, Madurai, and on further conditions that:

(a) 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;

(b) the petitioner is directed to appear before the learned Sessions Judge, Principal Special Court for trial of Cases under the POCSO Act, Madurai, daily at 10.30 a.m., till the disposal of the



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criminal case in Spl.S.C.No.38 of 2017, failing which, the bail granted to the petitioner by this Court shall stand automatically vacated.

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)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]; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
31/01/2024

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/02/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

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1.The Sessions Judge,
Principal Special Court for trial of Cases under the POCSO Act, Madurai.

2.The Inspector of Police,
Thallakulam All Women Police Station,
Madurai District.

3.The Officer Incharge,
Sub Jail, Madurai.

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

+1CC to M/s.G.YOGESHWARAN, Advocate, SR.No.1314(I), dated 01.02.2024

ORDER
IN

CRL OP(MD) No.185 of 2024
Date :31/01/2024

ED/ /SAR- (31/01/2024) 5P / 6C

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