



CRL OP(MD). No.1027 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 23/01/2024

PRESENT

The Hon`ble Mr.Justice **M.DHANDAPANI**

CRL OP(MD). No.1027 of 2024

Avudaiappan

... Petitioner/ Accused No.1

Vs

The Inspector of Police,
Murappanadu Police Station,
Thoothukudi District.
(Crime No.234 of 2023).

... Respondent/Complainant

For Petitioner : M/s Pandian.M,
Advocate.

For Respondent : Mr.B.Nambi Selvan,
Additional Public Prosecutor

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

PRAYER :-

For Bail in Crime No.234 of 2023 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 02.12.2023 for the offences punishable under Sections 342 and 377 of IPC, in Crime No.234 of 2023, on the file of the respondent police, seeks bail.



CRL OP(MD). No.1027 of 2024

WEB COPY

2.The case of the prosecution is that the victim boy is a special child and studying 11th standard, on 18.11.2023, at about 08.00 p.m., the petitioner along with other accused committed sexual assault upon him. Hence, the case.

3.The learned counsel appearing for the petitioner would submit that the petitioner did not commit any offence as alleged by the prosecution and the only allegation made against the petitioner is that he simply watched the incident and except for this allegation, no other allegation was made against him and based on the confession statement of the co-accused, the petitioner has been implicated in this case. He would further submit that the petitioner is in judicial custody from 02.12.2023 onwards and hence, he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent would submit that as per the confession statement of A2, namely, Mugesh, the petitioner also accompanied with A2. He would further submit that the second accused bail application also dismissed by this Court. Hence, he vehemently opposed to grant bail to the petitioner.

5.Considering the facts and circumstances of the case and also perused the confession statement made by A2, no serious allegation was made against him and even as per the 164 statement, he has not committed any sexual assault against the victim and also considering the period of incarceration suffered by the petitioner,



CRL OP(MD). No.1027 of 2024

this court is inclined to grant bail to the petitioner with certain conditions.

WEB COPY

6. 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 **learned Judicial Magistrate Court, Srivaikuntam**, 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 respondent police daily at 10.30 a.m until further orders;

(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;



CRL OP(MD). No.1027 of 2024

(f)if the accused thereafter absconds, a fresh FIR can be registered under

WEB COPY

Section 229-A IPC.

sd/-
23/01/2024

/ TRUE COPY /

23/01/2024
Sub-Assistant Registrar ()
Madurai Bench of Madras High Court,
Madurai - 625 023.

SJI

TO

- 1 THE JUDICIAL MAGISTRATE
SRIVAIKUNDAM.
- 2 DO-THROUGH :
THE CHIEF JUDICIAL MAGISTRATE, TUTICORIN DISTRICT.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.
- 4 THE INSPECTOR OF POLICE
MURAPPANADU POLICE STATION,
THOOTHUKUDI DISTRICT.
- 5 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.M.PANDIAN, Advocate (SR-912[I] dated 23/01/2024)



WEB COPY



CRL OP(MD). No.1027 of 2024

ORDER
IN
CRL OP(MD) No.1027 of 2024
Date :23/01/2024

SS/SAR- /23/01/2024/5P/7C

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