



CRL OP(MD). No.1544 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 12/02/2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

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Thilak,

... Petitioner/ Accused

Vs

State Rep.by.

The Sub-Inspector of Police,

All Women Police Station,

Kanyakumari District.

In Crime No.41/2023.

... Respondent/ Complainant

For Petitioner : M/s.G.Anto Prince,
Advocate.

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

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

PRAYER :-

For Bail in Crime No.41/2023 on the file of the respondent police.



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ORDER : The Court made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 02.12.2023 for the offence punishable under Section 376AB of IPC and Sections 5(n), 5(m), 5(1), 5(j)(ii) and 6 of POCSO Act, in Crime No.41 of 2023 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that the accused committed aggravated penetrative sexual assault on the minor victim girl, due to which, she became pregnant. Hence, the complaint.

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. He would further submit that it is purely a love affair between the accused and the victim girl and they are close relatives and the accused decided to marry the victim girl, after she attains majority. He would further submit that the petitioner is in judicial custody from 02.12.2023. Hence, he prays for bail.

4. The learned Government Advocate (Crl.side) appearing for the respondent would submit that the petitioner had a physical relationship with the minor victim girl, due to which, she got pregnant. Hence, he opposed for grant of bail to the



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petitioner.

5. Heard the learned counsel on either side.

6. On perusal of the statement recorded under Section 164 Cr.P.C., it reveals that the petitioner and the victim had loved each other and with the consent of the victim girl, the petitioner had a physical relationship with her, pursuant to which, she got pregnant. Considering the facts and circumstances of the case and the period of incarceration and the fact that the petitioner is the uncle of victim girl and he has agreed to marry the victim girl, after she attains majority, 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 learned Special Judge for the exclusive Trial of Cases under POCSO Act, Kanyakumari District at Nagercoil, 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;

<https://www.mhc.tn.gov.in/judis>



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(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/-
12/02/2024

/ TRUE COPY /

12/02/2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ssb

TO

1. The Special Judge for the exclusive Trial of Cases under POCSO Act,
Kanyakumari District at Nagercoil.



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2. The Officer Incharge,
District Jail, Nagercoil, Kanyakumari District.

3. The Sub-Inspector of Police,
All Women Police Station,
Kanyakumari District.

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

+1 CC to M/s.G.ANTO PRINCE, Advocate (SR-1718[I] dated 12/02/2024)

ORDER

IN

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Date :12/02/2024

SSA/SAR /12.02.2024/ 5P/ 6C

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