



CRL OP(MD)No.2744 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 21.02.2024

PRESENT

The Hon`ble Mr.Justice M.DHANDAPANI

CRL OP(MD)No.2744 of 2024

Jenith Kumar

... Petitioner/Sole Accused

Vs

The Inspector of Police,
All Women Police Station,
Marthandam,
Kanyakumari District.
(Crime No.35 of 2023)

... Respondent/Complainant

For Petitioner : Mr.A.Balakrishnan, 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.35 of 2023 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



CRL OP(MD)No.2744 of 2024

custody on 18.12.2023 for the alleged offence punishable under Sections 5(1), 6, 11(4), 12 POCSO Act in Crime No.35 of 2023, on the file of the respondent Police, seeks bail.

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2.The case of the prosecution is that on 17.12.2023, in night hours, the victim girl's mother found the petitioner in the victim's room. Thereafter, she came to know that the petitioner and the victim girl loved each other and the petitioner committed aggravated penetrative sexual assault on the victim girl by giving false promise of marriage. 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 the petitioner and the victim girl loved each other, however, the victim girl's family not accepted the same since they are belonged to different community. Accordingly, he prayed to grant bail to the petitioner.

4.The learned Additional Public Prosecutor appearing for the respondent Police would submit that the petitioner and the victim girl loved each other, however, the petitioner refused to marry her. Hence, he opposed to grant bail to th petitioner.



CRL OP(MD)No.2744 of 2024

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5.Considering the facts and circumstances of the case and considering the statement of the victim girl, recorded under Section 164 Cr.P.C. and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

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 Special Court under POCSO Act, Nagercoil, Kanniyakumari District 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., for a period of two weeks and thereafter, as and when required;

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



CRL OP(MD)No.2744 of 2024

WEB COPY

(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/-
21/02/2024

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21/02/2024
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

gns
TO
1.The Special Judge,
under POCSO Act,
Nagercoil, Kanniyakumari District

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



CRL OP(MD)No.2744 of 2024

2.The Officer Incharge, District Jail, Nagercoil.

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

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

+1 CC to MR.A.BALAKRISHNAN, Advocate (SR-2154[I] dated 21/02/2024)

ORDER
IN
CRL OP(MD) No.2744 of 2024
Date :21/02/2024

SSA//SAR-(21.02.2024) 5P 6C

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