

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 29/10/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.11883 of 2020

Arunkumar

... Petitioner/Sole Accused

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Pudukottai,
Thoothukudi District.
Crime No.10 of 2020

... Respondent/Complainant

For Petitioner : Mr.N.Ramesh Arumugam,
Advocate.

For Respondent : Mr.KR.Bharathikannan,
Government Advocate (Crl.Side)

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

PRAYER :-

For Bail in Crime No.10 of 2020 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 02.09.2020 for the offences punishable under
Sections 5(1),5(n), 5(j)(ii) and 6 of POCSO Act on the file of the
respondent police seeks bail.

2.The case of the prosecution is that the petitioner fell in
love with the victim girl aged about 17 years and thereafter he also
had sexual relationship with her, due to which she became pregnant.
Hence the complaint

3.The learned counsel for the petitioner would submit that both
petitioner and the victim girl are closely related and they fell in
love and also had physical relationship. He would also submit that
the petitioner is ready and willing to marry the victim girl
whenever she attains majority. He further submitted that the
petitioner is in jail for more than 50 days, hence he may be granted

4. The learned Government Advocate(Crl.Side) would submit that the petitioner and the victim are close relatives and utilizing the said circumstances the petitioner had sexual relationship with the victim girl aged about 17 years, due to which she become pregnant. He also produced the statement of the victim girl recorded under Section 164 Cr.P.C, wherein she has clearly stated that they are closely related and they both fell in love and they have physical relationship, due to which she become pregnant. From the perusal of the statement recorded it is seen that the date of birth of the victim is 17.09.2004 and she has completed 17 years and one month.

5. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that the petitioner is ready and willing to marry the victim girl whenever she attains majority, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions

[a] the parents of the petitioner and the victim shall file a joint affidavit for their consent to get marriage between the petitioner and the victim girl before the Special Court for Exclusive trial of cases under POCSO Act Cases, Thoothukudi.

[b] On receipt of such affidavit, the petitioner shall execute 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 for Exclusive trial of cases under POCSO Act Cases, Thoothukudi.

[c] the petitioner shall register the marriage with the victim girl on or before 30.10.2021 and produce the Marriage Registration Certificate before the respondent police and if the petitioner fails to register the marriage the respondent police is directed to secure the petitioner and proceed in accordance with law.

[d] the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

[e] the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

[f] the petitioner shall not tamper with evidence or witness.

[g] the petitioner shall not abscond during trial.

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[h]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].

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
29/10/2020

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/ /2020

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

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.THE SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT CASES, THOOTHUKUDI.
- 2.THE INSPECTOR OF POLICE, ALL WOMEN POLICE STATION, PUDUKOTTAI, THOOTHUKUDI DISTRICT.
- 3.THE SUPERINTENDENT, CENTRAL PRISON, PALAYAMKOTTAI.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN

CRL OP(MD) No.11883 of 2020
Date :29/10/2020

AAV
TK/PN/SAR.2/29.10.2020/3P/5C