

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Twenty Third day of March Two Thousand Twenty

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.6781 of 2020

MATHAMMAL

[PETITIONER / ACCUSED]

Vs

THE STATE REP. BY [RESPONDENT]

THE INSPECTOR OF POLICE,
ALL WOMAN POLICE STATION- PENNAGARAM.
(CRIME NO. 02 OF 2020)
DHARMAPURI DISTRICT.

For Petitioner : M/S. R.JOHN SATHYAN Advocate

For Respondent : M/S. K.PRABAKAR, Additional Public Prosecutor

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 24.02.2020 for the alleged offence under Sections 16 read with 17 of the Protection of Children from Sexual Offences Act 2012 and under Section 10 of Prohibition of Child Marriage Act, 2006 in Crime No.2 of 2020 on the file of the respondent police, seeks bail.

2. Heard both sides.

3. The case of the prosecution as per the defacto complainant/victim Sathya is that her father left her mother Muniyammal, ten years earlier and that she was living with her sister and mother. The 3rd accused, who is the father of the 1st accused, came to her house, while her mother was at home and negotiated an alliance for his son/the 1st accused and thereafter, marriage between the victim and the 1st accused was performed on 11.04.2019. While she was living at the matrimonial home, the first accused, who is her husband, had sexual intercourse with her and other accused had committed cruelty on her, later she escaped from the matrimonial home and given a complaint through Child Help Line. Based on which, a case was registered.

4. The learned counsel for the petitioner would submit that the petitioner is the mother of the 1st accused and she would submit that the mother of the victim one Muniyammal, who was arrayed as A5, had informed to the petitioner's husband that her daughter is aged more than 18 years, based on which, the alliance was fixed and marriage was performed on 11.04.2019. Subsequently, due to matrimonial dispute, the victim was left the matrimonial home and given a false complaint alleging that she is a minor and her marriage was performed on compulsion and thereafter, she was subjected to sexual intercourse by the 1st accused, later other accused, who are the parents of the 1st accused, committed cruelty on her.

5. The learned counsel for the petitioner would submit that the petitioner was arrested on 24.02.2020 and that only based on the information given by the mother of the victim/defacto complainant that her daughter was aged 18 years, the marriage between the victim and the petitioner's son was performed on 11.04.2019. Due to matrimonial dispute, the victim left the matrimonial home and that a false complaint was lodged against the petitioner and other accused.

6. The learned Additional Public Prosecutor would submit that the victim was aged about 15 years and her mother arranged the marriage with 1st accused. During her stay at matrimonial home, the 1st accused committed sexual intercourse and other accused have committed cruelty on her. He would further submit that the mother of the victim has been arrayed as A5 and that the petitioner, who is the mother of the first accused, is arrayed as A4. He would further submit that the investigation is still pending.

7. Taking into consideration the facts of the case and the submissions made by the learned counsel on either side and also the petitioner is in custody from 24.02.2020, I am inclined to grant bail to the petitioner subject to the following conditions.

8. Accordingly, the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with one surety for a like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Dharmapuri, and on further condition that:

[a] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks from 15.04.2020 and thereafter, as and when required for investigation.

[b] the petitioner shall not abscond either during investigation or trial.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] 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].

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

-sd/-

23/03/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE OFFICER INCHARGE
SUB-JAIL, KRISHNAGIRI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMAN POLICE STATION- PENNAGARAM,
DHARMAPURI DISTRICT.

+1 CC to R.JOHN SATHYAN Advocate on payment of necessary charges
SR.No.5638

CRL OP.6781/2020

Date :23/03/2020

cs 11/05/2020