

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.05.2020

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THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.7341 of 2020

Gnanasekar @ Mohan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.
(Crime.No.84/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioner on bail in the Crime No.84/2020 on the file of the Respondent police.

For Petitioner : Mr.S.N.Arunkumar

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.03.2020 for the offence punishable under Section 366(A) of IPC r/w. 3 and 4 of POCSO Act, 2012 in Crime No.84 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 18.03.2020, the victim girl was missing from home and the petitioner kidnapped her. Hence, the complaint came to be registered.

3. The learned counsel for the petitioner submitted that the petitioner is a Mason as well as the father of the victim girl. There was some rivalry between them, the victim girl and the petitioner liked each other and that was not liked by the parents of the victim and the victim's parents had made marriage arrangement for the victim girl with an elderly person. The victim girl, thereafter, forced the petitioner to join him, otherwise, she would commit suicide. Having no other choice, the petitioner and the victim girl have gone to the Pazhani Temple, where they were informed that the girl was aged about 17 years and 6 months and hence, the marriage could not be performed. Thereafter, the victim has gone to the parents' house and the petitioner was arrested in this case. He further submitted that the petitioner is in judicial custody from 21.03.2020. Hence, he prayed for grant of bail to the petitioner.

4. The Additional Public Prosecutor submitted that the minor girl of the defacto complainant was found missing from 19.03.2020 and two days

thereafter, the victim girl and the petitioner were secured and arrested. The victim girl had been sent for medical examination and the investigation reveals that both the victim and the petitioner are relatives and they were liking each other and the marriage was arranged for the victim with the elderly person.

5. Considering the submissions that the relationship between the petitioner and the victim girl and the age of the petitioner and the period of the incarceration by the petitioner, this Court is inclined to grant bail subject to the following conditions :-

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the concerned prison;

(b) thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/-(Rupees ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed.

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(d) the petitioner shall report before the respondent police as and when required for interrogation.

(e) the petitioner shall not abscond either during investigation or trial.

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial.

M.NIRMAL KUMAR, J.

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(g) 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]**.

(h) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

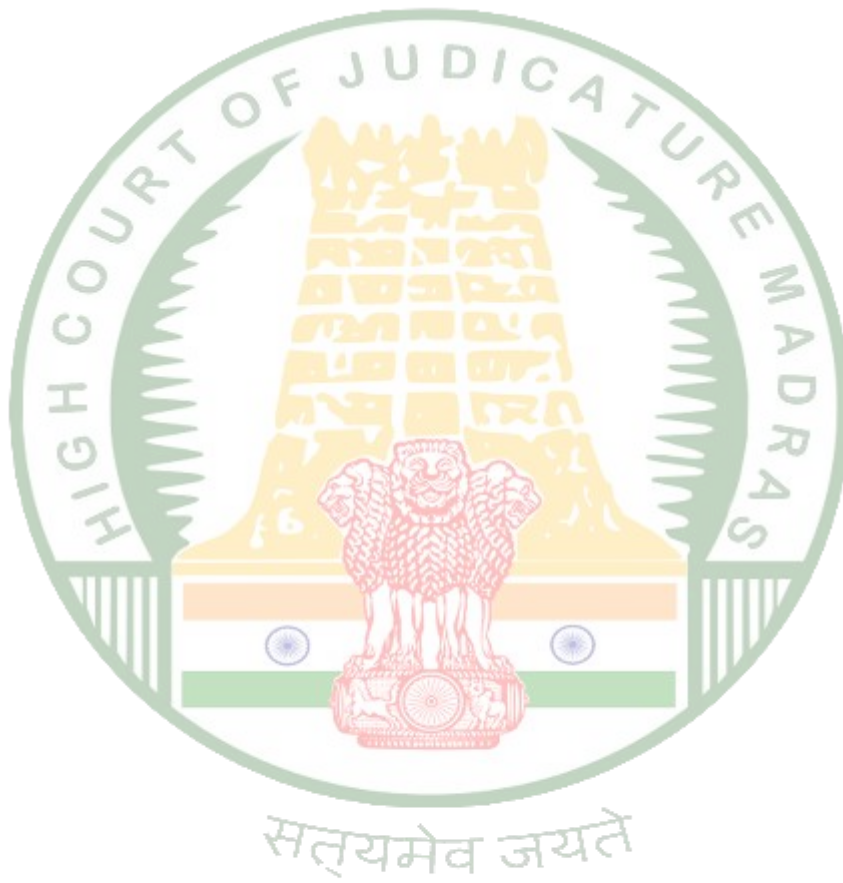
29.05.2020

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To

1. The Inspector of Police,
Kovilpalayam Police Station,
Coimbatore District.
2. The Public Prosecutor,
High Court, Madras.

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