

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.05.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

CrI.O.P.No.7534 of 2020

Vignesh

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
W-1, All Women Police Station,
Thousand Light,
Chennai District.
Cr. No.27 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.27 of 2020 on the file of the respondent police.

For Petitioner : Mr.N.Arunkumar

For Respondent : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 26.01.2020 for the offence punishable under Section 376 of the Indian Penal Code, 1860 in Crime No.27 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that a minor girl aged about 17 years was kidnapped by the petitioner and had sexual assault with her. Hence, this complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner fell in love with the victim girl aged about 17 years and 11 months. They eloped and got married in a Temple. Since the petitioner is aged about 19 years and the girl is aged about 17 years and 11 months, they could not able to register their marriage. However, they lived together and she got pregnant. Without considering the said fact, the respondent registered a case and now the petitioner is incarcerated in imprisonment from 26.01.2020. He further submitted that their parents also have no objection for their marriage and he is ready to file an affidavit before the respondent to that effect. He further undertakes that immediately after attainment of their majority, the petitioner will register his marriage with the victim girl and produce registration certificate before the respondent. He further submitted that the petitioner is in judicial custody from 26.01.2020 and hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that the victim girl is aged about 17 years only and she was kidnapped by the petitioner and had sexual intercourse. Now the victim girl is 3 months pregnancy. He further submitted that 164 statement reveals the victim girl fell in love with the petitioner and thereafter, they had physical relationship and she got pregnant. Hence, he vehemently opposed for grant of bail to the petitioner.

5. It is seen that the petitioner is the sole accused. Admittedly there is a love affair between the petitioner and the victim girl. The petitioner is aged about 19 years and the victim girl is aged about 17 years and 11 months. According to the petitioner, he got married with the victim girl in a Temple and thereafter, they were living together and she got pregnant and he is ready to register their marriage immediately after attainment of majority.

6. Considering the facts and circumstances of the case and also the period of incarceration by the petitioner from the date of arrest, i.e., 26.01.2020, this Court is inclined to grant bail to the petitioner on 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) the petitioner shall produce two blood relative sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 08.06.2020, failing which the bail granted by this Court shall stand dismissed automatically.

(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 file an affidavit of his parents about their willingness of his marriage with the victim girl before the respondent police.

(e) the petitioner immediately after attaining majority shall register his marriage with the victim girl before the registering authority and produce their marriage certificate before the respondent, failing which the respondent is directed to take appropriate action against the petitioner in accordance with law.

(f) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders.

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

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

(i) 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].

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

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
13/05/2020

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 SPECIAL JUDGE,
COURT FOR EXCLUSIVE TRIAL UNDER POCSO ACT,
CHENNAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-1, ALL WOMEN POLICE STATION,
THOUSAND LIGHT, CHENNAI DISTRICT.

CC to M/S. S.N.ARUNKUMAR Advocate on payment of necessary charges

CRL OP.7534/2020

Date :13/05/2020

RVR 03/08/2020