

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.06.2020

CORAM

THE HONOURABLE MR. JUSTICE **M. NIRMAL KUMAR**

Crl.O.P.No.7558 of 2020

Ganesan,

S/o.Perumal,

No.3/63, South Street,

Moongil Thozhuvu,

Udumalpet Taluk,

Tiruppur District.

... Petitioner

Vs.

State represented by

The Inspector of Police,

Gudimangalam Police Station,

Tiruppur District.

(Crime No.306 of 2020)

... Respondent

Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the
Petitioner on bail in Crime No.306 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.R.Arun Kumar

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

ORDER

The petitioner was arrested and remanded to judicial custody on
18.04.2020 for the offences under Section 366(A) IPC r/w Section 5(1) r/w Section 6 of the Prevention of

Children from Sexual Offences Act, 2012, in Crime No.306 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 17.04.2020, the *de facto* complainant, father of the victim girl had lodged the complaint stating that he was residing with his wife and two daughters at Udumalpet; his elder daughter was aged about 17 years, who was studying 12th standard; due to COVID-19 pandemic, schools have been closed and she was at home; on 16.04.2020, at 4.00 p.m., she informed him (*de facto* complainant) that she is going to visit her grandmother's house, which is nearby; thereafter, the *de facto* complainant went to fetch her daughter and came to know that his daughter was not there. On 18.04.2020, at 1.00 p.m., the respondent police rescued the victim girl near Udumalpet bus stand and enquired her. During enquiry, the victim stated that the petitioner had taken her away and had physical relationship with her on the promise of marrying her. Hence, a case was initially registered for girl missing has been altered to the offences as mentioned above.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl were in love with each other for the past two years and the same was came to the knowledge of the parents of the victim girl. Taking advantage of the closure of schools, marriage was arranged for the

victim girl against her wish. Therefore, the victim girl called the petitioner and asked him to take her away and get married. When the petitioner resisted, she told him that she would end her life, hearing so, the petitioner had taken her and gone to his brother's house and stayed there for a day. When both the petitioner and the victim girl came to know that they are searched, the victim girl had contacted her parents, who promised her that they would accept her love and perform marriage between her and the petitioner. Thereafter, they both came to the village and at that time, the petitioner was arrested. Further, he would submit that the petitioner was in judicial custody from 18.04.2020 and seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that the victim girl was 17 years and studying 12th standard and due to COVID-19 pandemic, she was at home as the schools were closed. The petitioner and the victim girl were in love with each other, which was not accepted by the parents of the victim girl and therefore, they arranged for a marriage with someother elderly person against her wish. Therefore, the victim girl eloped with the petitioner. On 18.04.2020, the victim girl and the petitioner came back to the village, where, the victim girl was rescued and the petitioner was arrested. During enquiry, the victim girl has stated about her love affair with the petitioner and

that she had voluntarily joined the petitioner, accompanied him to various places, stayed together and had physical relationship with him and on the advice of the villagers and the others, had contacted her parents and relations, who promised that they would accept her love affair and perform marriage for her with the petitioner. On the guise of their promise, the victim girl and the petitioner came back to village. The alteration report was filed before the concerned Magistrate and the Sections were altered as mentioned above.

5. Taking into consideration the facts and circumstances of the case and also taking note of the fact that the petitioner was in judicial custody from 18.04.2020 and further taking note of the fact that due to the tender age and not knowing the consequences of their act, both the victim girl and the petitioner had eloped, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of

regular functioning of Court below, 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 report before the respondent police as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

(f) the petitioner shall not abscond either during investigation or trial;

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

(h) on breach of any of the aforesaid conditions, the learned Judicial 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.

M.NIRMAL KUMAR, J.

nsd

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

10.06.2020

nsd

To

1.The Mahila Judge,
Tiruppur.

2.The Superintendent of Prison,
Central Prison,
Coimbatore

3.The Inspector of Police,
Gudimangalam Police Station,
Tiruppur District.

4.The Public Prosecutor,
Madras High Court,
Chennai.



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