

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.8354 of 2020

Ajith Kumar

.... Petitioner

Vs.

State rep. by
The Inspector of Police,
All Women Police Station,
Jayankondam.
(Crime No.6 of 2020)

.... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to grant bail to the petitioner in Crime No.6 of 2020 pending investigation on the file of the respondent police.

For Petitioner : S.N.ArunKumar

For Respondent : Mr.C.Iyyapa Raj

Additional Public Prosecutor

O R D E R

The petitioner who was arrested and remanded to judicial custody on 21.05.2020 for the offence under Sections 376(2)(i), 376(2)(n) of IPC 1860 r/w Section 5(1) (5(i)(ii), and Section 6 of protection of Children from sexual Offences Act 2012 and Section 9 of Prohibition of Child marriage Act 2006 in Crime No.6 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim's mother is a vegetable vendor and the victim's father deserted his wife/victim's mother. The petitioner mother is owing one acre of agricultural land. Both the victim and the petitioner were staying in the same house and the petitioner's mother is taking care of them and they are living together and developed relationship between them. The victim is an orphanage. Taking this as advantage, marriage was conducted to the victim a minor who was in a precarious situation had to accept for the marriage and later she became pregnant and went for treatment to Government Hospital, where the Hospital Authorities came to know that the victim is a minor and informed the same to the District Child Protection

Officer, who lodged the complaint. Hence, the case has been registered by the respondent police.

3. The learned counsel of the petitioner submitted that the victim's parents have deserted the victim thereafter, it is the petitioner's mother who was taking care of the victim and she was staying along with the petitioner's family from her young age. Thereby both developed intimacy and interest between them. Finally, the petitioner's mother as well as elders in the family and villagers conducted the marriage on 02.09.2019 before the village temple. Due to the marriage, the victim became pregnant and went for treatment to Government Hospital where the Hospital Authorities came to know that the victim is a minor and informed the same to the District Child Protection Officer, who had lodged the complaint. Since, the victim had no proper school education, there was no record to ascertain the correct age of the victim. The petitioner was arrested. Even after the arrest of the petitioner, the victim is still living with the petitioner's family voluntarily. The petitioner is the victim of the circumstances and seeks bail.

4. The learned Additional Public Prosecutor submitted that the marriage between the minor girl and the petitioner was held on 02.09.2019 by the petitioner's mother and the villagers. The victim a orphan was under the care and custody of the petitioner's mother from her young age. The petitioner's mother was taking care of both the petitioner and the victim. During this period the petitioner and victim developed interest and intimacy between each other, which was accepted by the family members and thereafter marriage was conducted between the petitioner and the victim. Subsequently due to the marriage the victim became pregnant. During the pregnancy the victim had gone to the Government Hospital for regular check up, where the Hospital authorities came to know that the victim was a minor and thereafter case came to be registered. It is the fact that the victim was still with the petitioner's mother voluntarily.

5. Considering the facts and circumstances of the case and the victim is now 8 months pregnant, further the victim has no formal school education, there was no records to ascertain the age of the victim and the age of the victim was not properly disclosed and not known to the petitioner or his mother, this Court is inclined to grant bail to the petitioner, 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, 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 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 appear before the trial Court during every hearing date without fail.

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

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

[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 petitioners 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/-
16/06/2020

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 FAST TRACK MAHILA COURT,
ARIYALUR.

2 THE OFFICER INCHARGE,
SUB JAIL, JAYAMKONDAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
JAYANKONDAM.

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

CRL OP.8354/2020

Date :16/06/2020

MK:30/09/2020

WEB COPY