

IN THE HIGH COURT OF JUDICATURE AT MADRAS

CORAM

THE HONOURABLE MR.JUSTICE. M. NIRMAL KUMAR

Reserved On : 12.06.2020

Delivered on: 16.06.2020

CrI. O.P. No.8556 of 2020

M. Vignesh

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
All Women Police Station,
Thiruvarur District.
(Crime No.07/2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioner on bail in Crime No.07 of 2020 pending on the file of the respondent police.

For Petitioner. : Mr. S. P. Muthamizh Selva Kumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.05.2020 for the offence punishable under Sections 5 (j) (ii), 5 (1), 6 of Protection of Children from Sexual Harassment Act, 2012 in Crime No.07 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the Child Welfare Committee of the District had lodged a complaint before the respondent police. The Child Welfare Committee of the District was informed by the Thiruvarur Medical College Hospital's Doctor about the age of the victim is 16 years and she has given birth to a baby on 12.05.2020. This fact was known to them when the Aadhaar Card of the victim was verified for registering the birth of the child. Thereafter, the Child Welfare Committee had lodged a complaint against the accused and he was arrested. Hence the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is the uncle of the victim girl and the victim girl was staying with her grand mother from her young age with whom she grew up. During this period, the petitioner and the victim girl developed interest with each other and the grand mother of the victim was also aware of the same. Thereafter, she arranged simple marriage ceremony between the petitioner and the victim and that the marriage was solemnized on 10.02.2019 as per their custom wherein the relatives

also participated. Thereafter, becoming pregnant the victim registered with the Government Hospital, Thiruvarur and she had been regularly going for periodical checkup. Finally, she got admitted on 12.05.2020 and the baby was delivered on 13.05.2020 and that she got discharged on 17.05.2020. During her periodical checkup she had given her age as 19 years since, she has not taken any proper education and there is no school certificate and that the date of birth of the victim was given by her parents. The victim as well as the petitioner and the grand mother state that the victim was aged 19 years and that wrong entry is made in the Aadhaar Card as though victim is aged 17 years. Further the petitioner is a coolie worker. The victim as well as the petitioner and the grand mother are uneducated, coming from poor family and they are not aware of the wrong entry made in the Aadhaar Card that the victim was only aged 17 years. Only for availing benefits from the Government, the Aadhaar Card was produced without knowing the fact that the date of birth has been wrongly mentioned. Further, the victim is still staying with the family of the petitioner and the petitioner only taking care of them. The petitioner is a daily coolie and due to the incarceration, he is unable to support his wife and child as well as the grand mother. Further, the petitioner never disputed the paternity of the child. Even in the Birth Certificate issued by the authority, the petitioner's name is entered as father. Only because of the wrong entry made in the Aadhaar Card, the entire trouble is caused to the petitioner. Hence, he prays for grant of bail to the petitioners.

4. The learned Additional Public Prosecutor (Crl. Side) would also admitted the fact that the marriage between the petitioner and the victim was conducted by the grand mother and the elders of the family. However, he submitted that after the victim became pregnant, she got registered with the Government Hospital, Thiruvarur as if, her age is 19 years. But after she delivered baby on 13.05.2019, when the victim's Aadhaar Card was verified, it was found that the victim is aged 16 years. Thereafter the hospital authorities had informed the Child Welfare Committee and based on the complaint from the Child Welfare committee, the petitioner was arrested. Hence, he opposed for the grant of bail to the petitioners.

5. Considering the submissions and on perusal of records produced, it is seen that the victim has given her age of 19 years during her regular medical checkup and during her admission to the hospital for and during delivery. After the victim given birth to the baby on 13.05.209, it was found that the age of the victim is mentioned as 17 years in the Aadhaar Card. Admittedly, the victim and the petitioner are relatives and they were living with the grand mother and their marriage was solemnized between them by their family elders. Further, the grand mother has admitted that the age of the victim is 19 years and that in the Aadhaar Card, the age of the victim has been wrongly mentioned which fact was not known to them and only for availing Government benefit the Aadhaar Card was produced to the hospital authorities without knowing the fact that wrong entry is made in the Aadhaar card.

6. Taking into consideration the submissions that the petitioner is working as daily coolie and also he is the breadwinner of the family and that the victim is still staying in the petitioner's house along with the grand mother and further these people are uneducated and rustic villagers, 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 on their release;
- (b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within 15 days from the date of lifting of the lockdown and the commencement of the Court's normal functioning, 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.

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

-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 ADDITIONAL SESSIONS JUDGE,
FAST TRACK MAHILA COURT, THIRUVARUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVARUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY.

CC to M/S.P.MUTHAMIZH SELVAKUMAR Advocate on payment of
necessary charges

CRL OP.8556/2020

Date :16/06/2020

RVR 05/10/2020

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