

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :17.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Crl.O.P.No.8827 of 2020

Arumugam

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
All Woman Police Station,
Thiruvannamalai.
Cr. No.09 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.09 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr. Iyyappa Raj

Additional Public Prosecutor

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ORDER

The Petitioner, who was arrested and remanded to judicial custody on 29.05.2020 for the alleged offences punishable under Sections 294(b), 323, 363, 366, 376(1) & 506(i) OF IPC and Section 3 (a) r/w 4 and 5(1) r/w 6 and 17 of POCSO Act and Section 9 and 11 of Prohibition of Child Marriage Act 2006 in Crime No.09 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is the daughter of one Suresh who is the brother of the petitioner. On 15.12.2019, when the defacto complainant was in her house, the paternal aunt and uncle gave a false information to her that her mother had asked them to bring her to the temple following which, she was taken to Adi Annamalai Temple where her grandfather, grandmother and her uncle's son namely Premkumar were present. Thereafter, her aunt, uncle and grandparents forced her to have marriage with the said Premkumar for which, earlier the parents of the defacto complainant refused since, the defacto complainant was minor and her date of birth is 17.05.2003. Subsequently, the said premkumar tied Thali to the defacto complainant and after marriage, she was taken to her uncle's house where she was forcibly raped by the said Premkumar. Since, the parents of the defacto complainant were helpless and voiceless, they could

not raise protest for the illegal act of the accused person and later the defacto complainant gained confidence and lodged the present complaint before the respondent police on May 2020.

3. The contention of the learned Counsel for the petitioner is that the petitioner is none other than the paternal uncle of the defacto complainant and even according to the complaint, he has not participated in the forcible marriage or in the events thereafter. The defacto complainant has lodged this complaint nearly after five months for which, no reason has been given. He further submitted that it is her parents who conducted the marriage within the family. Now on a wrong advise from some of the relatives in order to grab the property, the defacto complainant has given a false complaint. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that there are totally 12 accused in this case and the petitioner is arrayed as A12. A1, A7, A9 and A12 have been arrested and the other accused are still absconding. He further submitted that the petitioner and the defacto complainant are close relatives and that on the date of marriage the victim was minor and during the marriage all the relatives and the petitioner were present. Hence,

he opposed for the grant of bail to the petitioner.

5. It is seen that the petitioner had no role in the child marriage or in the events thereafter. Considering the above facts and circumstances of the case and considering the period of incarceration by the petitioner from 29.05.2020 , 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, in which the petitioner has been confined on his 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 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 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.

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

17.06.2020

Internet: Yes/No

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M.NIRMAL KUMAR, J.

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To

1. The Sessions Judge, (FAC), Thiruvannamalai.
2. The Judicial Magistrate No.I,
Thiruvannamalai.
3. The Inspector of Police,
All Woman Police Station,
Thiruvannamalai.
4. The Public Prosecutor,
High Court, Madras.
5. The Superintendent,
Central Prison, Vellore.



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