

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.9003 of 2020

S.Sivakandan

... Petitioner

Vs.

State rep.by
Inspector of Police,
Taluk Police Station,
Thiruvarur.
Crime No.99 of 2020

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioner /accused on bail and release him from the custody in Crime No.99 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.V.Johnson Yuvaraj

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

O R D E R

The petitioner was arrested and remanded to judicial custody on 16.05.2020 for the offence punishable under Section 6 r/w 5(1) of Protection of Child Sexual Offence Act, 2012, in Crime No.99 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant had lodged a complaint that her minor girl was missing from 06.03.2020. The respondent police registered the case and after investigation, they found that the victim girl eloped with the petitioner on 06.03.2020 and she has been living with him until 16.05.2020, when the petitioner was arrested by the respondent police.

3. The learned counsel for the petitioner submitted that the petitioner was a lorry driver and having his lorry shed near the temple. The victim who was a 12th Std. student, used to visit the temple regularly and she developed love affair with the petitioner which was opposed by the family members of the victim. Further, the family members of the victim arranged marriage for the victim against

her wish and the victim was kept in confinement. Thereafter, on 06.03.2020, the victim escaped from her house and gone to the petitioner's house and forced him to marry her, failing which, she will commit suicide. The petitioner had no other choice, to save the victim from forcible marriage and out of love affair, both of them went to Dindugal and they had their marriage in a temple in Dindugal. They lived there for two months and thereafter, the respondent police arrested the petitioner and secured the girl on 16.05.2020. Hence, he prayed for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the mother of the victim had lodged a complaint that her minor girl was missing from 06.03.2020 and the girl was studying only 12th Std. Despite several warning from the defacto complainant, the petitioner had been following the victim girl and thereafter, on 06.03.2020, the girl was found missing and the defacto complainant registered a complaint to the respondent and thereafter, on investigation, the respondent police found that the petitioner and the victim were residing in Dindugal. They went there, arrested the petitioner and secured the victim girl. During the investigation, it came to know that they were in love affair with each other, due to which, they eloped from their house and had marriage in Dindugal. The statement of the victim stated that she voluntarily left her home and joined the petitioner. The statement under Section 164 of Cr.P.C, also recorded. In that also, the victim reiterated the same.

5. Considering the fact that the victim is going to attain majority in few months and also the fact that the victim had voluntarily left the home and married the petitioner and stayed in Dindugal for two months and also taking note of the fact that the petitioner is in judicial custody from 30.05.2020, 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 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 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.

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

-sd/-

19/06/2020

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 SUPERINTENDENT,
CENTRAL JAIL, TRICHY.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TALUK POLICE STATION,
THIRUVARUR.

CC to M/S.V.JOHNSON YUVARAJ Advocate on payment of necessary charges

CRL OP.9003/2020

Date :19/06/2020