

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.07.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.9416 of 2020

C.Mayakannan

..Petitioner

/versus/

State represented by

Inspector of Police,

Eriyoor Police Station

Dharmapuri District,

(Crime No.46 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in crime no 46 of 2020, on the file of Inspector of police, Eriyur Police Station, Dharmapuri.

For Petitioner : Mr.C.Turibius Beski

For Respondent : Mr.K.Prabhakar,
Addl Public Prosecutor

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 12.05.2020 for the offences punishable under Sections 366 I.P.C. and 5 (i) r/w. 6 POSCO Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.46 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the de-facto complainant Mr.Palani is that his daughter one Priya was missing from 24.03.2020. Based on the complaint given by the de-facto complainant, the case was initially registered under the caption 'Girl Missing'. During investigation it came into light that the petitioner had abducted the victim and later the case was registered under Sections and 5 (i) r/w. 6 POSCO Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 and the petitioner was arrested on 12.05.2020.

3.The learned counsel for the Petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that there was a love affair between

the petitioner and the victim girl. Since it came to the knowledge of the family members of the victim girl, they started harassing her and unable to bear the harassment she voluntarily came to the house of the petitioner and thereafter on believing the words of the victim girl that she is aged 18 years, the petitioner took her to the temple and married her only with her consent. He also produced the photographs of the marriage stating that the victim girl had voluntarily came along with the petitioner and married him. Later, when the girl was secured the respondent police had forcibly recorded the statement from her.

4. The learned Additional Public Prosecutor would submit that when the petitioner had abducted the de-facto complainant's daughter who is aged about 16 years and married her against her wish and also committed sexual assault on her. He would further submit that the girl has been secured and her statement has been recorded, wherein the victim girl has stated that originally there was a love affair between the petitioner and the victim girl and petitioner by using the photograph taken when they were friendly had threatened the victim and taken her forcibly and married her without her consent. Further, he had also committed sexual assault on her.

5. Taking into consideration of the facts and circumstance of this case and also taking into consideration the period of incarceration, this Court is inclined to grant bail to the Petitioner subject to the following conditions:-

(a) Accordingly, 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 and thereafter on his release;

(b) The Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Fast Track Mahila Court, Dharmapuri 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 daily at 10.30 A.M. for a period of two weeks and thereafter as and when required.

(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 Petitioners 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.

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

-sd/-

03/07/2020

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 JUDGE,
FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE OFFICER INCHARGE,
SUB JAIL, DHARMAPURI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ERIYOOR POLICE STATION,
DHARMAPURI DISTRICT.

CC to M/S.C.TURIBIUS BESKI Advocate on payment of necessary charges

CRL OP.9416/2020

Date :03/07/2020

RD 12/08/2020