

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.06.2020

CORAM :

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

CrI.O.P.No.9510 of 2020

Amudha

... Petitioner

/versus/

State Inspector of Police,
All Women PS., Thiruvananthapuram,
Thiruvananthapuram District.
Cr.No.09 of 2020

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, pleaded to grant bail to the petitioner / Accused No.5 pending investigation in Crime No.09 of 2020 on the file of Respondent Police.

For petitioner : Mr.D.Balaji

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 29.05.2020 in Crime No.09 of 2020 on the file of the respondent police for the offences punishable under Sections 294(b), 323, 363, 366, 376(1) & 506(ii) of IPC and Section 3(a) r/w 4 and 5(1) r/w 6 and 17 of POCSO Act and U/s 9 and 11 of Prohibition of Child Marriage Act, 2006, seeks bail.

2.The case of the prosecution as per the defacto complainant/victim is that her mother is no more and that she was taken care by her relatives and that the relatives had got married her to one Prem Kumar, aged about 42 years, against her wish.

3. The learned counsel for the petitioner would submit that the petitioner is arrayed as A5 in this case and she is the relative of the victim. The defacto complainant's mother passed away and she was taken care by her relatives. Under the circumstances, she has attained the age of majority and was married to A1 and she was also living with A1. Thereafter, there was a misunderstanding between the victim girl and her husband and therefore, the case has been given by the victim. Based on which, the petitioner has been arrested. He

would submit that the co-accused, in this case who was similarly placed, has been granted bail by this Court in CrI.O.P.No.9443 of 2020.

4. The learned Additional Public Prosecutor would submit that the petitioner, who is the relative of the victim girl, along with other accused joined together and given her in marriage to one Prem Kumar against the wish of the victim girl on 15.02.2019. Based on the complaint given by the victim girl, the case has been registered for the offence alleged. He would further submit that the investigation is pending.

5. Taking into consideration the facts and circumstances of the case and 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 her 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), before the Special Court for Trial of cases under POCSO Act, Thiruvananthapuram, within 15 days from the date of lifting of the lock down 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.

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

-sd/-
26/06/2020

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 SPECIAL COURT
FOR TRIAL OF CASES UNDER POCSO ACT,
THIRUVANMALAI

2 THE JAILER
SPECIAL PRISON FOR WOMEN AT CENTRAL PRISON,
VELLORE ,CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVANNAMALAI,
THIRUVANNAMALAI DISTRICT.

CC to M/S. D.BALAJI Advocate on payment of necessary charges

rd 21/07/2020

CRL OP.9510/2020

Date :26/06/2020

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