

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.07.2020

CORAM :

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

Crl.O.P.No.10180 of 2020

Tamilselvan

... Petitioner

- Vs. -

State Rep. By its
The Inspector of Police,
Aaladi Police Station,
Cuddalore District.
(Crime No.27 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.27 of 2020 on the file of the respondent police.

For Petitioner : Mr.K.Gandhi Kumar

For Respondent : Mr.T.Shanmugarajeswaran,
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 09.06.2020 for the offences punishable under Sections 147, 294(b), 366, 506(i) of the Indian Penal Code, 1860 and later altered into 147,294(b),366,506(i) of IPC, section 5(1),6,17 of POCSO Act-2012 and section 9, 10 of The Prohibition of Child Marriage Act 2006, in Crime No.27 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the de facto complainant one Tamilarasi is that on 05.03.2020 at 11.30 hours, the petitioner abducted her minor daughter named Mahalakshmi. After searching her in the house of relatives, she gave a complaint and based on the complaint given, the respondent registered a case for the offences under Sections 147, 294(b), 366, 506(i) of the Indian Penal Code, 1860 and later, it was found that the petitioner had taken the minor child and married her in a temple and thereafter, had sexual intercourse. The case was altered into one under Section 147, 294 (b), 366, 506(i) of IPC, section 5(1), 6, 17 of POCSO Act-2012 and section 9, 10 of The Prohibition of Child Marriage Act 2006.

3. The learned counsel for the Petitioner would submit that the petitioner and the de facto complainant were neighbors and relatives and that the victim and the petitioner studied in the same school and they loved each other. Since it was objected by the de facto complainant, the victim who was in the verge of attaining majority came to the house of the petitioner on her own volition and they had gone to a temple at Hosur and got married at Hosur. While they were living at Hosur, the petitioner was arrested by the respondent and the statement under Section 164 Cr.P.C has been recorded from the victim. She had stated that on her own volition, went along with the petitioner and got married. Further, she had refused to go along with her mother-de facto complainant and since, she has attained majority, she has decided to live with the parents of the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner abducted the minor daughter of the defacto complainant and thereafter, taken her to Hosur and got married. He would submit that the victim has been secured and the statement under Section 164 of Cr.P.C has been recorded. He would further submit that the victim is not living with the defacto complainant.

5. Taking into consideration of the facts and circumstances of the case, 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 learned Judicial Magistrate-II, Virudhachalam, 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 everyday at 10.30 a.m for a period of one week and thereafter, 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/-

07/07/2020

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 JUDICIAL MAGISTRATE,
NO.II, VIRUDHACHALAM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
AALADI POLICE STATION,
CUDDALORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

CC to M/S. K.GANDHI KUMAR Advocate on payment of necessary charges

CRL OP.10180/2020

Date :07/07/2020

RVR 02/09/2020