

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.10394 of 2020

Ajay

... Petitioner

Vs.

State rep. by
The Inspector of Police,
All Women Police Station,
Mannagudi, Thiruvavarur District.
Crime No.5/2020.

...Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest in connection with the FIR No.5 of 2020 on the file of The Inspector of Police, All Women Police Station, Mannagudi, Thiruvavarur District.

For Petitioner : M/s.A.Sriram

For Respondent : Mr.M.Mohammed Riyaz
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner who apprehend arrest at the hands of the respondent police for the offences punishable under Sections 5(I) and 6 of the Protection of Child from Sexual Offence Act, 2012 in Crime No.5 of 2020 on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant Nithyasri is that the petitioner committed sexual assault on the defacto complainant on the promise of marrying her. Hence, the complaint.

3. The learned counsel for the petitioner would submit that in fact the petitioner and the defacto complainant loved each other and that due to some misunderstanding and on the instigation of the parents of the defacto complainant, a false complaint has been given against the petitioner. He would further submit that the victim has attained majority and during the pendency of the complaint, the petitioner has also married the defacto complainant/victim on 8.06.2020 at the office of the Sub Registrar, Mannagudi, and the marriage took place with the consent and blessings of both the parents of the petitioner and the defacto complainant. He would also submit that very recently, the victim delivered a child and

thereafter, the child died and that the petitioner is now taking care of the defacto complainant.

4. The learned Additional Public Prosecutor submitted that the petitioner committed sexual assault on the defacto complainant when she was a minor. However, he concurred with the statement of the learned Counsel for the petitioner that on 08.06.2020, the marriage between the petitioner and the defacto complainant was performed with the consent of both their parents and that the marriage was also registered before the Sub Registrar, Mannagudi.

5. Taking into consideration the fact that the petitioner has already married the victim girl with the consent of her parents and that their marriage has also been registered before the concerned Sub Registrar Office, this Court is inclined to grant Anticipatory Bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.1, Mannargudi, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with one surety, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further conditions that :

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m. for a period of one week and thereafter, as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

14/07/2020

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.I, MANNARGUDI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MANNAGUDI, THIRUVARUR DISTRICT

CC to M/S. A.SRIRAM Advocate on payment of necessary charges

CRL OP.10394/2020

Date :14/07/2020

सत्यमेव जयते

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