

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.OP.No.11501 of 2020

Karthikeyan

... Petitioner

Vs.

State rep. by

... Respondent

Inspector of Police

All Women Police Station

Vellore District

Crime No.07 of 2020

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C., praying to enlarge the petitioner on bail in the event of arrest in Crime No.07 of 2020 on the file of the respondent.

For Petitioner : Mr.S. Thirugnanam

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence punishable under Section 6, 5(I), 5(j)(ii), 9 of POSCO Act 2012 and Section 9 of Child Marriage Restraint Act, 1929 in Crime No.07 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the statement recorded from the defacto complainant is that her mother passed away, when she was a little girl and she was taken care by her grand mother. The petitioner herein without the knowledge of her grand mother married her 1 ½ years ago and they are living as husband and wife. Further the petitioner was taking care of her and she became pregnant.

3. The learned counsel appearing for the petitioner would submit that he is a orphan and the elders of the village had arranged the marriage between the petitioner and the defacto complainant and they are living as husband and wife. He would further submit that the petitioner was not aware of the age of the victim and he was taking care of the defacto complainant. Hence he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing on behalf of the respondent police submitted that the petitioner is a relative of the defacto complainant and they got married and living together as husband and wife and she became pregnant. In the statement recorded from victim she had stated that she married the petitioner on her own volition. However he opposed to grant anticipatory bail to the petitioner.

5. Heard the counsels. Perused the statement recorded from the victim under section 164 Cr.P.C.

6. Taking into consideration the facts and submissions of the learned Counsel and the fact that 164 statement has been recorded from the victim, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

7. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on her 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 Special Judge Exclusive trial for POSCO Act cases, Vellore, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two 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 condition 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 daily at 10.30 a.m. for a period of two weeks 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 persons thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
06/08/2020

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 JUDGE EXCLUSIVE TRIAL FOR POSCO ACT CASES,
VELLORE,

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VELLORE DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.S.THIRUGNANAM Advocate on payment of necessary
charges SR.No 5878

CRL OP.11501/2020

Date :06/08/2020

MN-20/08/2020

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