

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2020

CORAM :

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

Crl.O.P.No.11708 of 2020

E.Vikram @ Vallarasu

... Petitioner

Vs.

The State,
Rep. By the Inspector of Police
Vettavalam Police Station,
Thiruvannamalai District.
(Crime No.1331 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the Petitioner on bail in respect of Crime No.1331 of 2020 on the file of the Vettavalam Police Station, Thiruvannamalai District, pending investigation.

For Petitioner : Mr.S.B.Viswanathan

For Respondent : Mr.T.Shunmugarajeswaran
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 the judicial custody on 15.07.2020 for the alleged offences punishable under sections 363 and 366 of IPC read with Sections 4 and 18 of the POCSO Act in Crime No.1331 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that his daughter was found missing and initially the case was registered for "Gril Missing" and later during enquiry, it came to light that the petitioner had kidnapped the victim girl and committed penetrative sexual assault on her. Subsequently, the case was altered to sections 363 and 366 of IPC read with Sections 4 and 18 of the POCSO Act.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the victim and the petitioner were in love with each other. But the parents of the victim girl, had compelled her to marry someone else against her wish. Therefore, the victim girl had left her home and came to the house of the petitioner and that they got married. He would submit that the victim girl was born on 15.06.2020 and the marriage between the petitioner and the victim girl was solemnized after the victim girl attained majority i.e. on 08.07.2020 and that the marriage was registered before the Sub Registrar, Kalasapakkam on 09.07.2020. He would further submit that even in the statement of the victim girl, she has stated that on her own volition she had gone along with the petitioner and married him and that the petitioner has been in judicial custody from 15.07.2020. Hence, he seeks for grant of bail to the petitioner.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner had kidnapped the victim girl four days prior to her attaining majority and they got married after the victim girl attained majority. He would further submit that the statement of the victim has been recorded under Section 164 of Cr.P.C. in which, she has stated that she had gone along with the petitioner on her own volition and got married with him. He further submitted that the medical examination in respect of the petitioner and the victim girl is also completed.

5.Taking into consideration of the above facts and circumstances and considering the submissions made by the learned counsels and the period of incarceration by the petitioner from 15.07.2020, 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 condition to execute 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, Thiruvannamalai. within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, 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 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/-

04/08/2020

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 JUDICIAL MAGISTRATE,
NO.II, THIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VETTAVALAM POLICE STATION,
THIRUVANNAMALAI DISTRICT.

+1 CC to M/S. S.B.VISWANATHAN Advocate on payment of necessary charges SR.No.5846

CRL OP.11708/2020

Date :04/08/2020