

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.11678 of 2020

Muniappan

... Petitioner

Vs.

The State,
The Inspector of Police,
All Women Police Station,
Pennagaram, Dharmapuri District.
(Crime No.7 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.7 of 2020 on the file of the Inspector of Police, All Women Police Station, Pennagaram, Dharmapuri District.

For Petitioner : Mr.B.Kumarasamy

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 05.06.2020 for the alleged offences punishable under sections 5(1)(i)(ii) r/w.6 of POCSO Act and 9 of Prohibition of Child Marriage Act in Crime No.7 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution was registered based on the statement recorded from the victim girl. As per the victim girl, she is the distant relative of the petitioner and that they were in love with each other for about 1½ years. Since, it was not accepted by their family members, on 10.02.2019 the petitioner had induced the victim girl and on the promise of marriage, had taken her to Coimbatore and married her to lead the matrimonial life. During such time, he had intercourse with the victim girl due to which, she had become pregnant and that on 08.04.2020, she developed delivery pain and she was admitted in the hospital. When she was in the hospital, an intimation was given by the medical authorities based on which, the statement of the victim girl was recorded and the case was registered.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are close relatives and that they were in love with each other. Since, it was not accepted by their family members, without understanding the consequences, the petitioner had eloped with the victim girl and they were living as husband and wife at Coimbatore. During such period, the victim became pregnant and on 08.04.2020 when the victim girl had developed labour pain, she was admitted in the hospital for delivery wherein, based on the complaint given by the medical authorities, the case came to be registered. He would submit that the petitioner was arrested on 05.06.2020 and he has been in judicial custody for the past two months and the major part of investigation is over. He would further submit that in the statement also the victim girl has stated that she had eloped on her own volition with the petitioner. 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 minor girl and committed penetrative sexual assault on her due to which, the victim girl has delivered a baby. He would further submit that the major part of investigation is over and the statement of the victim has been recorded under Section 164 of Cr.P.C. and 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 05.06.2020, 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 Sessions Judge/Fast Track Mahila Court, Dharmapuri. 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 two weeks and thereafter every Monday at 10.30 a.m., until further orders.

(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 SESSIONS JUDGE/FAST
TRACK MAHILA COURT, DHARMAPURI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PENNAGARAM, DHARMAPURI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S. B.KUMARASAMY Advocate on payment of necessary charges Sr.5849

CRL OP.11678/2020

Date :04/08/2020

RVR 07/08/2020