

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.12143 of 2020

Rajendran

... Petitioner/5th Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Arni, Thiruvannamalai District.
(Crime No.11 of 2019)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest in Crime No. 11 of 2019 pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Paul Aganamuthu

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Sections 376 of IPC read with Section 3(a), 4 of Protection of Child from Sexual Offences Act r/w Section 9 and 11 of Prohibition of Child Marriage Act in Crime No.11 of 2019, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant/victim is that she is aged about 17 years and that the first accused one Sathishkumar had induced her in the promise of marriage and committed penetrative sexual assault on her. Thereafter, the other accused coming to know of that, had conducted the marriage between her and A1 in a temple and subsequent to the marriage, the victim and the first accused resided at Ramanathapuram and somebody had taken a photograph of

the marriage and sent it to the District Social Welfare Officer. Based on which, on the instruction of the District Social Welfare Officer, a case was registered.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and that he is not aware of the age of the victim and the first accused. He would submit that since it was represented to him that the first accused and victim girl were in love with each other and that she became pregnant before marriage, the grand father of A1 wanted to perform the wedding in a Temple and that he also was present along with the other accused. Other than that he has nothing to do with the offence. He would submit that the first accused has surrendered before the Court and he has been granted bail. Hence, he prays to grant anticipatory bail to the petitioner.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is an important person in the village. The first accused has committed sexual assault on the victim girl and coming to know of that, the relatives of the first accused have performed the marriage of the first accused in a temple in the presence of the petitioner. He would further submit that there is no previous case pending against the petitioner and that Statement under Section 164 Cr.P.C. has been recorded from the victim girl and medical test has also been over. However, he opposed to grant anticipatory bail to the petitioner.

5 Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6 Accordingly, the petitioner is directed to be released on bail in the event of her arrest or on his appearance, within a period of fifteen days from lifting of lockdown or the commencement of Court's normal functioning whichever is earlier, before the learned Judicial Magistrate No.II, Thirupathur District, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each 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 police every day at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

13/08/2020

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,
THIRUPATHUR DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARNI, THIRUVANNAMALAI DISTRICT

CC to M/S. S.PAUL GNANAMUTHU Advocate on payment of
necessary charges

CRL OP.12143/2020

Date :13/08/2020