

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No. 12289 of 2020

Prabakaran

... Petitioner

Vs.

The State represented by, ... Respondent
The Inspector of Police,
Ammapettai Police Station,
Erode District.
(Crime No.63 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.63 of 2020, on the file of the Inspector of Police, Ammapettai Police Station, Erode District.

For Petitioner : Mr.M.A.Muthalakan

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Cr1. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 22.05.2020 for the offences punishable under Section 366 IPC, section 9 of Prohibition of Child Marriage Act, 2006 and section 6 of the Protection of Children from Sexual Offences Act 2012 in Crime No. 63 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the de-facto complainant one Ramesh is that his minor daughter aged about 17 years was studying 12th Standard in a Government School. The defacto complainant have seen the petitioner having conversation with his daughter for several times and have also warned the petitioner not to talk to his daughter. On 20.03.2020, his daughter was found missing. Due to which, a complaint was given on 21.03.2020 and a case was registered under section 366 IPC. During the course of

the minor girl and had committed penetrative sexual assault on her. Thereafter, the offence was altered under section 9 of Prohibition of Child Marriage Act, 2006 and section 6 of the Protection of Children from Sexual Offences Act 2012.

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 petitioner and the daughter of the defacto complainant were neighbours and that they were in love with each other. Since they belong to two different communities, it was objected by the parents of the victim and the parents of the victim had decided to get her married to some other person against her wish. Due to which, she eloped and got married the petitioner. He would further submit that the petitioner was arrested on 22.05.2020 and the victim girl was secured. He would also submit that the victim is pregnant and the petitioner does not dispute the paternity and he would submit that the petitioner is prepared to marry the victim girl as soon as she attains majority. Hence, he seeks for grant of bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the minor daughter of the defacto complainant on 21.03.2020 and married her in a temple and had committed penetrative sexual assault on her, due to which, the victim became pregnant. He would submit that the victim is now two months pregnant. He would also submit that the victim's statement was recorded under Section 164 Cr.P.C and the medical examination on the petitioner and the victim girl is also completed. However, he opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and submission of the learned counsels and that the petitioner undertakes to marry the victim girl when she attains majority, 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 executing 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 Fast Track Mahila Court, Erode, within 15 days from the date of lifting of the lock down and the commencement of the Court's normal functioning, 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. 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 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];

(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/-

14/08/2020

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 FAST TRACK MAHILA COURT,
ERODE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.

4 THE INSPECTOR OF POLICE,
AMMAPETTAI.P.S, ERODE DISTRICT.

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

CRL OP.12289/2020

Date :14/08/2020