

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.12183 of 2020

Ashok

... Petitioner/Single Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Vellore,
Vellore District.

... 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. 13 of 2020, pending on the file of the respondent

For Petitioner : Mr.E.Kannadasan

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(2)(n) of IPC, read with Section 6, 5(I), 5(j)(ii) of Protection of Children from Sexual Offence Act read with Section 9 of Child Marriage Act 1929, in Crime No.13 of 2020, on the file of the respondent police, seeks anticipatory bail.

2 The case of the prosecution as per the defacto complainant/minor girl is that she is aged about 15 years and that her parents had arranged the marriage with the petitioner, who is aged about 25 years and the marriage was conducted on 11.07.2019 at K.V.R.Bagavathi at Anicut and thereafter, they were happily living together as husband and wife. Whiles, on 07.08.2019, she has become pregnant and she was admitted to the Primary Health Centre, Odugathur, for deliver, on 20.05.2020 and from there, she was taken to Government Hospital, Adukkamparai, Vellore, for better treatment and there she delivered a child on 23.05.2020. Thereafter, the hospital authority have informed the police that she was less than 18 years and thereby, on the statement recorded from her, a case was registered.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and that the parents of the defacto complainant have arranged the marriage between the petitioner and the defacto complainant and the petitioner believing that the victim is aged about more than 18 years, agreed for the marriage and the marriage was conducted. Thereafter, both of them were living together in the house of the petitioner. He would submit that even as per the complaint, the victim has stated that she was living along with the petitioner happily as husband and wife. He would submit that the petitioner being an illiterate, was not aware of the age of the victim. He would further submit that the petitioner is prepared to appear before the respondent police for any kind of enquiry.

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has married minor girl on 11.07.2019 and they were happily living together as husband and wife and due to their wedlock, the victim girl has given birth to a female child on 23.05.2020. Thereafter, the hospital authority have informed the police that she was less than 18 years and thereby, as per the statement has been recorded from the victim girl, a case has been registered.

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 her appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate No.III, Vellore, 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.III, VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges

CRL OP.12183/2020

Date :13/08/2020

MK:28/08/2020