

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.12477 of 2020

K.Prabakaran
S/o.Kuppan

... Petitioner

Vs.

State: Inspector of Police
W13, All Women Police Station
Washermanpet, Chennai.
(Crime No.3337 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to release the petitioner on bail pending investigation in Crime No.3337 of 2020 on the file of the respondent.

For Petitioner : Mr.M.P.Saravanan

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 judicial custody on 26.07.2020 for the offences punishable under Section 366 (A) of IPC @ 366 (A) IPC and 4 of POCSO Act, 2012, Crime No.3337 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant one P.Ramesh is that his daughter namely, Anitha was working in a Textile Shop at M.C.Road. On 25.07.2020, while his daughter came along with the petitioner / accused, he enquired her about the same and she revealed that she got married with the petitioner. Thereafter, the petitioner's relatives entered his house unlawfully and taken his minor daughter. On the same day, he lodged a complaint against the petitioner and the petitioner was arrested on 26.07.2020.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the de-facto complainant's daughter loved each other, which was opposed by the de-facto complainant. Hence, the victim girl voluntarily eloped with the petitioner. When she was

secured, she refused to go with her parents. He would further submit that once the victim girl attained majority, they have decided to get married.

4. Per contra, the learned Government Advocate (Crl.Side) would submit that the petitioner forcibly took the victim girl from her house, who was aged about 17 years. He would further submit that the petitioner was earlier married and his wife left him two years back and her whereabouts are not known. The petitioner's family is making arrangements for the marriage of the petitioner with the victim girl after the lock down. He would also submit that the victim girl refused to go along with her father and hence, she has been detained in a Women's Home.

5. Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and also perused the statement under 164 Cr.P.C., 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 within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Special Sessions Judge for Exclusive Trial of Cases under POCSO Act, 2012, 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 Aadhaar card or Bank pass Book to ensure their identity;

(d) the petitioner on his release from prison, shall stay at Chennai and report before the W13, All Women Police Station, Washermanpet, Chennai, 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 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/-

04/09/2020

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 SPECIAL SESSIONS JUDGE
FOR EXCLUSIVE TRIAL OF CASES UNDER
POCSO ACT, 2012

2 THE OFFICER INCHARGE
SUB-JAIL, SAIDAPET, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W13, ALL WOMEN POLICE STATION,
WASHERMANPET, CHENNAI.

CC to M/S.M.P.SARAVANAN Advocate on payment of necessary
charges

WEB COPY

CRL OP.12477/2020

Date : 04/09/2020

RD 08/09/2020