

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.08.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.12667 of 2020

Y.Pannerselvam

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station,
Vellore District.
(Crime No.12 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail, in the event of his arrest in Crime No.12 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.G.Balamanikandan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

(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, Sections 6, 5(1), 5(j)(ii) of POSCO Act and Section 9 of the Child Marriage Restraint Act, in Crime No.12 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the petitioner and the defacto complainant are husband and wife. At the time of marriage, the defacto complainant is a minor girl. Due to wedlock, she got pregnant and she was admitted in the Government Hospital, Adukkamparai for delivery and the information given by the Hospital Authorities, the respondent enquired the defacto complainant/victim and registered a case. Thereafter, a statement was recorded from the victim and the case was registered under Section 376(2)(n) of IPC, Sections 6, 5(1), 5(j)(ii) of POSCO Act and Section 9 of the Child Marriage Restraint Act. Thereafter, the victim was taken before the learned Magistrate and her statement was recorded by the learned Magistrate, wherein, the victim had stated that she fell in love with the petitioner/accused, who is 19 years old and they eloped without the knowledge of the parents, they got married at a temple.

After the marriage, the victim and the petitioner had gone to the house of the petitioner and the parents of the petitioner had accepted them and during the period of stay, she got pregnant and she was admitted in the Hospital.

3.The learned counsel for the petitioner would submit that the petitioner and the victim are known to each other and that they loved each other and since the parents of the victim were about to give her in marriage with someone else against her choice, without understanding the consequences, they eloped from the house and got married. They were accepted by the parents of the petitioner and they were living in the house of the petitioner. During which time, she has become pregnant. After her delivery, the victim and her child also taken care of the petitioner's parents. The learned counsel for the petitioner would submit that the Medical Examination of the victim was over and the petitioner is also prepared to co-operate with the respondent for any kind of Medical Examination.

4.The learned Additional Public Prosecutor would submit that the petitioner and the defacto complainant are husband and wife. At the time of marriage, the defacto complainant is a minor girl. Due to wedlock, she got pregnant and she was admitted in the Government Hospital, Adukkamparai for delivery and the information given by the Hospital Authorities, the respondent enquired the defacto complainant/victim and registered a case. Thereafter, the statement under Section 164 was recorded from the victim and hence the case was registered under Section 376(2)(n) of IPC, Sections 6, 5(1), 5(j)(ii) of POSCO Act and Section 9 of the Child Marriage Restraint Act.

5.Taking into consideration the facts and circumstances of the case and submissions made by the learned counsels, 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 arrest or on his appearance, within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Special Judge for Exclusive Trial of cases under POSCO Act 2012, 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., until further orders.

[c]The petitioner would also subject himself to Medical Examination by the respondent.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

31/08/2020

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 SPECIAL JUDGE FOR EXCLUSIVE
TRIAL OF CASES UNDER POSCO ACT, 2012, VELLORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CC to M/S.G.BALAMANIKANDAN Advocate on payment of necessary charges

CRL OP.12667/2020

Date :31/08/2020

TA-22/09/2020

<https://hcservices.ecourts.gov.in/hcservices/>