

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2020

CORAM :

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

Crl.O.P.No.12784 of 2020

Premkumar
S/o Srinivasan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station,
Tiruvannamalai - 606601

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with case in Crime No.09 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.Arun 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 29.05.2020 for the offences punishable under Section 294 (b), 323, 363, 366, 376(1) and 506(1) IPC and Section 3a, 4, 5(1), 6 and 17 of the POCSO Act, 2012 and Sections 9 and 11 of Prohibition of Child Marriage Act, 2006 in Crime No.09 of 2020, seeks bail.

2.The case of the prosecution as per the victim defacto complainant Moganapriya is that she is a minor and on 15.12.2019, her parents and the parents of A1 arranged for child marriage and she was given in marriage to A1 and A1 has committed penetrative sexual assault and thereafter, he also harassed her under the influence of alcohol and due to which she has come out from the matrimonial home.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a matrimonial case has been falsely projected as a case under the POCSO Act. He would submit that the parents of the victim informed the parents of A1 that the defacto complainant is a major and based on that, marriage was arranged and the marriage was conducted at temple in the presence of the elders of both family and after the marriage they were living as

husband and wife in the house of the petitioner and due to matrimonial dispute the victim came out of the house and gave complaint. The petitioner is not aware that the victim is a minor and only on the assurance and information given by the parents of the victim that she is a major, marriage was arranged by the members of both family. He would further submit that the parents of the victim, the co-accused were granted anticipatory bail in Crl.O.P.No.9383 of 2020, dated 27.06.2020. He would also submit that the medical examination has been over and the statement of the victim has also been recorded.

4.The learned Government Advocate (Crl. Side) would submit that the victim defacto complainant is aged about 17 years. The parents of the victim and the parents of the petitioner arranged child marriage for the victim and the petitioner and the marriage was conducted on 15.12.2019 and the petitioner had committed penetrative sexual assault on her and thereafter under the influence of alcohol, assaulted her and driven her out from the matrimonial house. He would further submit that the investigation is pending, however, statement of the victim was recorded under Section 164 Cr.P.C. and medical examination for the petitioner and the victim is over.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, and also considering the period of incarceration suffered by the petitioner from 29.05.2020, 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) Thereafter, 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, and execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Special Judge, POCSO cases, Tiruvannamalai, 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 on his release from prison, shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders.

(e) the petitioner shall not commit any offences of similar nature;

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/-

24/08/2020

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
POCSO CASES, TIRUVANNAMALAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVANNAMALAI.

CC to ARUN SARAVANAN Advocate on payment of necessary charges

CRL OP.12784/2020

Date : 24/08/2020

RD 04/09/2020