

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.13944 of 2020

NareshKumar

... Petitioner

Vs.

State represented by,
The Inspector of Police,
All Women Police Station,
Vellore,
Vellore District.
Crime No. 11 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of arrest by the respondent police in Crime No.11 of 2020 on the file of the respondent police.

For Petitioner : Mr.G.Saravanan

For Respondent : Mr.M.Mohammed Riyaz,

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, Section 6, 5(1), 5(i)(ii) of the protection of children from sexual offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, in Crime No.11 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the respondent police registered the case based on the intimation from the hospital authority that the minor victim girl had delivered a child in the hospital and the statement was obtained from the victim girl wherein she had stated that, she fell in love with the petitioner for the past 1 ½ years, when she was studying in HSC and since her mother was not feeling well, she married the petitioner and delivered a child.

3 The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are known to each other for several years. The petitioner believed that the age of the victim girl to be more than 18 years and without understanding the consequences of POCSO Act, married the victim girl and consummated and delivered a child. He would further submit that on the information given by the hospital authority, the case was registered. He would also submit that the victim was taken before the Court and the statement of the victim girl was recorded. He would also submit that the victim, as on date, attained majority and that the petitioner is now taking care of the defacto complainant and her daughter. Hence, he prays to grant anticipatory bail to the petitioner

4 The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner had committed sexual assault and thereafter, he married the victim girl and she had delivered a baby. He would further submit that the statement under Section 164 Cr.P.C has been recorded from the victim girl, wherein, she had stated the mother was ill and on her advise, she had married the petitioner before attaining the majority.

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 his arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Vellore, Vellore District, 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 daily at 10.30 a.m., for a period of two weeks and thereafter on 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/-
15/09/2020

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 JUDGE FOR EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
VELLORE,VELLORE DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT,MADRAS.

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

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

CRL OP.13944/2020

Date :15/09/2020

GKS:24/09/2020