

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.09.2020

CORAM :

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

CRL.O.P.No.14337 of 2020

MANIKANDAN

... Petitioner

Vs.

State by the Inspector of Police,
All Women Police Station, Arni,
Tiruvannamalai District.
(Crime No.9 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused on bail in Crime No.9 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Dhayalan

For Respondent : Ms.S.Thankira
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 23.07.2020 for the offences punishable under Section 376(1) and Section 3(a) r/w 4 and 6 POCSO Act, 2012, in Crime No.9 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, victim girl is that the petitioner induced her on the false promise of marriage had committed penetrative sexual assault on her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case due to misunderstanding with the defacto complainant. He would further submit that the petitioner and the defacto complainant are the residents of the same village and they belong to the same community. He would further submit that there was a love affair between the petitioner and the defacto complainant and that the petitioner without understanding the rigors and consequences of the POCSO Act, had committed sexual intercourse with the defacto complainant and later the victim's grandmother had seen their relationship and at her instigation, the complaint has been lodged. He would further submit that only fearing that the petitioner might not marry the victim, she has given a false complaint. He would further submit that from the statement recorded under 164 Cr.P.C. the petitioner understands that the victim has stated that there was a

consensual affair between them and that only after her grandmother came to know about the relationship the complaint has been given. He would further submit that the petitioner and his father have sworn affidavits before this Court undertaking they are prepared to conduct the marriage between the petitioner and the victim girl once she attains majority and marriageable age. He would further submit that the affidavit of the petitioner has been sent from the jail and the affidavit of the father has also been filed.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner on the false promise of marrying the victim had committed penetrative sexual assault on the girl on several occasions. She would further submit that the statement under 164 Cr.P.C. has been recorded, the medical examination in respect of the victim and the petitioner is over and the investigation has been completed and the final report has also been filed before the Special Court for POCSO Act cases, Thiruvannamalai and the same has not been taken on file so far.

5.At this juncture, learned counsel for the petitioner would reiterate that the petitioner is a villager and he had committed the offence without understanding the rigors and consequences under the POCSO Act, He would further submit that the petitioner and his father have filed their affidavits of undertaking that the marriage between the petitioner and the defacto complainant would be conducted once the girl attains marriageable age.

6.Heard the learned counsel on either side, perused all the materials placed on record and also the 164 Cr.P.C. Statement recorded from the victim girl. The affidavits filed by the petitioner as well as the father of the petitioner have been taken on record.

7.Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and also considering the affidavits filed by the petitioner as well as the father of the petitioner and the period of incarceration suffered by the petitioner, 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;

(b) Thereafter, the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) each with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Thiruvannamalai, within a period of two weeks from the date of commencement of the Court's normal functioning, 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. 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 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];

(i) 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/-

22/09/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सतयमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE,
NO.I. THIRUVANNAMALAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARNI, TIRUVANNAMALAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

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

CRL OP.14337/2020

Date :22/09/2020

RVR 24/09/2020



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