

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.14847 of 2020

Mari

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
Chengam Police Station,
Tiruvannamalai District.
Crime No.1610/2020.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to grant Anticipatory bail to the petitioner in the event of his arrest in Crime No.1610 of 2020 on the file of the respondent police.

For Petitioner : Mr.K.Narayanan

For Respondent : Mr. M. Mohamed 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 offences publishable under Sections Girl Missing @ 366(A) of IPC @ 4, 5(1), 6 and 17 of POCSO Act 2012 and Section 9 of Prohibition of Child Marriage Act 2006 and Section 366, 366(A), 376 of IPC in Crime No. 1610 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the defacto complainant's minor daughter Divya was found missing on 08.06.2020 and based on such complaint, a case was registered under the caption "Girl missing". Later on enquiry, it was found that the victim was abducted by the first accused and he had taken her and married her and thereafter, he had sexually assaulted on her. The allegation against the petitioner is that he assisted the main accused(A1). Hence the compliant.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. This petitioner and the first accused are brothers. Since the first accused and the petitioner loved each other, the first accused abducted the defacto complainant and they got married on some other place. This petitioner is no way connected with the offence. He would further submit that now, the victim girl has been secured. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that at the relevant point of time, the petitioner assisted the main accused to abduct the daughter of the defacto complainant and helped them to get married. The first accused had committed aggravated sexual assault on the victim girl. Now, investigation is pending. Statement under Section 164 CRPC has been recorded and the medical examination of the victim girl and the first accused has been completed and also submitted that A1 and A2 have already been arrested and thereafter released on bail by this Court. Hence, he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case, and also the fact that medical examination of the first accused and the defacto complainant is over and also the statement under Section 164 Cr.P.C. has been recorded, this Court is inclined to grant 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 after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Judicial Magistrate, Chengam, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, 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 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 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].

[f] If the accused thereafter abscond, 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

TRUE COPY

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

TO

1 THE JUDICIAL MAGISTRATE,
CHENGAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
CHENGAM POLICE STATION,
TIRUVANNAMALAI DISTRICT.

+1 CC to M/S. K.NARAYANAN Advocate on payment of necessary charges
SR.No.6389

CRL OP.14847/2020

Date :22/09/2020

cs 29/09/2020