

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.15921 of 2020

Sathish

... Petitioner

Vs.

The State represented by ... Respondent

The Inspector of Police
Gudimangalam Police Station,
Tiruppur district.
(Cr. No.1407 of 2020)

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the even of his arrest by the respondent police concerned in Crime No.1407 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.M.N.Balakrishnan

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) of IPC and Section 6, 5(j)(ii), 5(I) Protection of Child from Sexual Offences Act, 2012** in Crime No.1407 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner has performed child marriage and the victim delivered a baby on 27.07.2020. The case was registered based on the information given by the hospital authority. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated

other for a long time and they fell in love with each other. The petitioner is an uneducated person and the victim's parents, sated that she attained majority. Believing the same, he agreed for marriage and they got married in temple and lived as husband and wife. Thereafter, the victim became pregnant and admitted in the hospital for delivery. During that time the hospital authority identified that she is a minor and therefore the hospital authority given the complaint. The petitioner is an uneducated person and he was unaware of the rigours and the consequences of the POCSO Act. The victim girl has delivered a child and medical examination was completed and a statement has been recorded under Section 164 Cr.P.C. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has performed a child marriage and she delivered a baby in hospital and the case was registered based on the information given by the hospital authority. Hence, he opposed for grant of anticipatory bail to the petitioner.

5. Considering the facts of this case and the submissions made by the counsels and the fact that, this Court is inclined to grant anticipatory bail to the petitioner.

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the **learned Judicial Magistrate No.II, Udumalpet**, on condition that the petitioners shall execute a separate 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:

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter, every Monday at 10.30 a.m until further orders.

[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 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]**.

[g] 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/-
04/11/2020

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,
NO.II, UDUMALPET.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
GUDIMANGALAM POLICE STATION,
THIRUPPUR DISTRICT.

+1 CC to M/S.M.N.BALAKRISHNAN Advocate on payment of necessary charges SR.NO.7360

CRL OP.15921/2020

Date :04/11/2020

TA-10/11/2020