

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 16522 of 2020

Sabarinathan

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
Palacode Police Station,
Palacode, Dharmapuri District. ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 1222 of 2020, on the file of the respondent police.

For Petitioner : Mr.M.Muruganantham

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 09.08.2020 for the offences punishable under Sections 366(A), 5(1) of IPC r/w Section 6 of POSCO Act and Section 9 of Child Marriage Act, 2006, in Crime No. 1222 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Usha who is the mother of the victim girl, is that the petitioner had kidnapped her minor daughter, performed child marriage and had also committed repeated penetrative sexual assault on the victim girl. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner and the victim belonged to the same community and that there was love affair between them for the past few years. He would submit that the mother of the victim was against their love affair, she has arranged marriage to the victim girl with someone else against her choice and thereby, the victim eloped from the house with the petitioner and they have stayed at their paternal aunty house and coming to know of the registration of the case, the petitioner and the victim girl have returned back to their village, where the petitioner was arrested. He would further submit that the petitioner and the victim have belong to the same community and steps for arranging marriage between them has also taken by the parents of both the parties. He would

further submit that the statement has been recorded from the victim girl under Section 164 of Cr.P.C, wherein, she has not stated anything as if the petitioner has committed any sexual assault on her. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the minor daughter of the defacto complainant, performed child marriage and had also committed penetrative assault on the victim girl. He would submit that when the victim girl was examined under Section 164 of Cr.P.C, she had not stated that the petitioner had not sexually assaulted her. He would submit that the investigation has been completed and it is pending opinion from the legal advisor. Hence, he opposed to grant bail to the petitioner.

5 Heard both the learned counsels and perused the materials placed on record including statement recorded under Section 164 Cr.P.C from the victim girl.

6 Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioner is in jail from 09.08.2020, 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 a 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 learned District Mahila Court, Dharmapuri District and on further conditions that:

(b) 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;

(c) the petitioner shall report before respondent police everyday at 10.30 a.m., until further orders.

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

(e) the petitioner shall not abscond either during investigation or trial;

(f) 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 abscond, a fresh FIR can be registered under Section 229A IPC.

7 With the above directions, this Criminal Original Petition is ordered.

-sd/-

16/10/2020

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 DISTRICT MAHILA COURT,
DHARMAPURI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE OFFICER INCHARGE,
DISTRICT JAIL AT DHARMAPURI

4 THE INSPECTOR OF POLICE,
PALACODE POLICE STATION,
PALACODE, DHARMAPURI DISTRICT.

CC to Mr.M.Muruganantham Advocate on payment of necessary charges SR.6965

CRL OP.16522/2020

सत्यमेव जयते Date :16/10/2020

RVR 19/10/2020

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