

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2020

CORAM :

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

CRL.O.P.No.17113 of 2020

Prakash

... Petitioner

Vs.

State rep.by
Inspector of Police,
Kalambur Police Station,
Polur Taluk,
Tiruvannamalai District.
(Crime No.2354 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2354 of 2020 on the file of the respondent Police.

For Petitioner : Mr.V.Prakash Babu

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 20.09.2020 for the offence punishable under Section 366(A) IPC @ 366, 363 IPC and Section 5(1) and 6 of the POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006, in Crime No.2354 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Kumar is that his minor daughter aged 16 years, was found missing. During the course of investigation, it came to light that the petitioner had kidnapped the victim girl and performed child marriage and also committed penetrative sexual assault on her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. In fact the petitioner and the defacto complainant belong to the same village but different communities and that the petitioner and the victim are known to each other for a long time.

When the defacto complainant came to know that the petitioner has

developed friendship with the victim girl, arranged for marriage against the wishes of the victim girl. Thereby, the victim girl eloped from the house and joined the petitioner. He would further submit that the petitioner being a rustic villager, without understanding the consequences and rigors of the POCSO Act, married the victim girl in a temple and thereafter, they were living as husband and wife. Meanwhile, the defacto complainant filed H.C.P.No.1603 of 2020 pursuant to which, the victim girl was secured and the petitioner was arrested on 20.09.2020. He would further submit that the medical examination in respect of the petitioner and the victim girl has been over. The petitioner understands that the statement of the victim has also been recorded under Section 164 Cr.P.C. wherein, she has not stated anything as if, the petitioner compelled her to come along with him or forcibly married her. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner who is the resident of same village of the defacto complainant, had kidnapped the minor daughter of the defacto complainant and performed child marriage with her in a temple and also committed penetrative sexual assault on her. Thereafter, the defacto complainant filed a petition in H.C.P.No.1603 of 2020 pursuant to which, the victim girl was secured and the medical examination on the petitioner as well as the victim girl is over and that the statement of the victim girl has also been recorded under Section 164 Cr.P.C.

5. Heard the learned Counsel on either side. Perused the F.I.R. as well as the statement of the victim girl recorded under Section 164 Cr.P.C.

6.Taking into consideration of the facts and submissions made by the learned counsels and considering 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 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 Special Court for trial of cases under POCSO Act, Tiruvannamalai, 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 on his release from prison shall report before the 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;

(g) 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];

(h) 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/-

06/11/2020

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 SPECIAL COURT FOR
TRIAL OF CASES UNDER POCSO ACT,
TIRUVANNAMALAI.

2 THE OFFICER INCHARGE
SUB-JAIL, POLUR.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KALAMBUR POLICE STATION,
POLUR TALUK,
TIRUVANNAMALAI DISTRICT.

+1 CC to M/S. V.PRAKASH BABU Advocate on payment of necessary charges SR.No.7367

CRL OP.17113/2020

Date :06/11/2020