

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.18000 of 2020

Arun @ Arun Kumar

... Petitioner

Vs.

The State rep. by
The Inspector of Police
Paaparapatti Police Station
Dharmapuri
Crime No.68 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.68 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Vinoth Kumar

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 alleged offences under Sections 5 (1) and 6, 16, 17 of POCSO Act and Section 9 & 10 of Prohibition of Child Marriage Act, in Crime No.68 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner kidnapped the de-facto complainant's minor daughter viz., Mahalakshmi, and had committed penetrative sexual assault on her. Initially, the case was registered under Girl Missing and subsequently, altered to Sections 5 (1) and 6, 16, 17 of POCSO Act and Section 9 & 10 of Prohibition of Child Marriage Act,

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that both the petitioner and the victim girl are same community and they were in love with each other. However, it was opposed by the mother of the victim girl.

He would further submit that the victim girl was born on 10.05.2001 and she had attained majority. Since the love affair was opposed by the parents of the victim girl, the petitioner had eloped with the victim girl and they got married and the marriage was registered at the office of the Marriage Officer, Anaikal, Karnataka State. He would further submit that after coming to know about the registration of the case, the petitioner has also sent back the victim girl to her parent's house. He would further submit that the police, during the course of investigation recorded a statement from the victim girl under Section 164 of Cr.P.C. In the statement under Section 164 of Cr.P.C, the victim has not stated anything that the petitioner has committed any sexual assault on her. However, the learned counsel for the petitioner reiterated that the fact remains that the victim is a major and she, on her own volition went along with the petitioner and both of them got married. Therefore, he prays to grant anticipatory bail to the petitioners.

4. The learned Additional Public Prosecutor would submit that the petitioner abducted the minor daughter of the de-factoc omplainant and had committed penetrative sexual assault on her.

5. Heard both sides and perused the materials on record including the birth certificate and the statement recorded under Section 164 of Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsels, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

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 of receipt of a copy of this order, before the learned Mahila Judge, Mahila Court (Fast Track), Dharmapuri. 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:

[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, as and when required for interrogation.

[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.

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

-sd/-
08/12/2020

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 MAHILA JUDGE,
MAHILA COURT (FAST TRACK),
DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
PAAPPARAPATTI POLICE STATION,
DHARMAPURI.

+1CC to M/S S.VINOTH KUMAR Advocate on payment of necessary charges SR NO.8057

CRL OP.18000/2020

Date :08/12/2020

MK:15/12/2020