

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.17904 of 2020

Suresh

... Petitioner

Vs.

State represented by, ... Respondent

The Sub- Inspector of Police,
Palacode Police Station,
Dharmapuri District.
(Crime No.1611 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C praying to enlarge the petitioner on bail in Crime No.1611 of 2020 on the file of the respondent.

For Petitioner : Mr.V.Sakkarapani

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Cr1.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 17.09.2020 for the alleged offences punishable under Sections 366 IPC Subsequently altered to 366 of IPC r/w Section 5 [1], 6 of POCSO Act 2012 and Section 9 of Child Marriage Act, 2006, in Crime No.1611 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Gunasekaran is that his minor daughter, aged 17 years, was studying 12th standard at Paramveer Matric Higher Secondary School, Papparapatti and that on 15.09.2020, the accused had kidnapped his daughter. Based on the complaint given, the case was originally registered for the offence under Section 366 of IPC. During the course of investigation, it came to light that the petitioner had kidnapped the minor girl and performed child marriage with the victim and committed repetitive penetrative sexual assault on her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the petitioner and the victim hail from the same village and they fell in love with each other. Coming to know about the love affair, the *de facto* complainant arranged the marriage to the victim against her wish. He would submit that the petitioner, without understanding the rigours and consequences of the Child Marriage, took the victim along with him and stayed in a hotel stating that they are husband and wife. He would submit that coming to know of the registration of the case, the petitioner along with the victim returned to the village on the same day and thereafter, the petitioner was arrested on 17.09.2020.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner kidnapped the minor daughter of the *de facto* complainant and performed child marriage with her and committed repetitive penetrative sexual assault with her. He would submit that the medical examination in respect of the petitioner and the victim has been completed and the statement of the victim girl has also been recorded.

5. Heard the learned counsels on both sides. Perused the FIR and the statement under Section 164 Cr.P.C recorded from the victim girl.

6. Taking into consideration of the facts and submissions made by the learned counsels and also considering the period of incarceration suffered by the petitioner from 17.09.2020, 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 Fast Track Mahila Court, Dharmapuri 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 daily 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/-

11/11/2020

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 FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUB INSPECTOR OF POLICE,
PALACODE POLICE STATION,
DHARMAPURI DISTRICT.

4 THE JAILER,
DISTRICT JAIL, DHARMAPURI.

CC to M/S. V.SAKKARAPANI Advocate on payment of necessary charges

CRL OP.17904/2020

Date :11/11/2020

TA-18/11/2020