

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.18987 of 2020

Chinnavedi

.. Petitioner

Vs.

The State rep. by
The Inspector of Police
Adhiyamankottai Police Station
Dharmapuri District
Crime No.1288 of 2020

..Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.1288 of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.R.Thamaraiselvan

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 01.10.2020, for the alleged offence under Section 366 IPC and Section 5(1), 6 of POCSO Act and Section 9 of Child Marriage Act 2006, in Crime No.1288 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner kidnapped the victim namely, Devalakshmi and detained her in his relative's house at Errapatty and had physical relationship and subsequently, the petitioner married the victim girl by tying Thali at Muniappan Temple situated near Papparapatti. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner and the victim girl are none other than relatives and they loved each other. He would further submit that since the victim girl's parents refused to accept the petitioner and the victim asked the petitioner to take her with him, without any other option the petitioner and the victim fled away and got

married. He would further submit that the petitioner is in custody from 01.10.2020 and hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that initially the case has been registered as 'Girl Missing' and subsequently altered to 5(1), 6 of POCSO Act and 9 of Child Marriage Act. He would further submit that the petitioner kidnapped the minor victim girl, who is aged 17 years and tied thali to her and had committed penetrative sexual assault on her. Thereafter, the victim girl has been rescued and her statement has been recorded under section 164 of Cr.P.C. and medical examination is also over. However, he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and also the period of incarceration undergone 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 his executing 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 Mahila Court, Dharmapuri**, 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 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 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]**.

[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/-

04/12/2020

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 COURT,
DHARMAPURI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CC to M/S.R.THAMARAISELVAN Advocate on payment of necessary charges

CRL OP.18987/2020

सत्यमेव जयते

Date : 04/12/2020

MN-08/12/2020

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