

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2020

CORAM :

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

CRL.O.P.No.19652 of 2020

Parameshwaran @ Siva

.. Petitioner

Vs.

State Rep by

The Inspector of Police,
All Women Police Station
Attur, Salem District
(Crime No.5 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail concerned in Crime No.5 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.A.Ramesh

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 20.10.2020 for the offence punishable under Sections 363 of IPC later altered into Section 363 IPC and Section 9 of Child Marriage Restraint Act 2006 in Crime No.5 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the de facto complainant one Selvarani is that her minor daughter was found missing. During the course of investigation, it came to light that the petitioner who is her relative had kidnapped her minor daughter and performed child marriage with 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. He would submit that the petitioner and the defacto complainant are relatives and that he had without informing the defacto complainant had taken her daughter to Melmaruvathur Temple and as a relative, he had tied some sacred thread to the daughter of the defacto complainant. Whereas, it was mistaken as if, he tied Thali to the victim girl. Further, the defacto complainant was antagonized with the petitioner since, he had taken her daughter to the temple without informing her. Thereby, she has lodged a false complaint against the petitioner. He would submit that on coming to know about the registration of the case, the petitioner brought back

the victim girl and surrendered before the respondent police. He would further submit that the petitioner understands that the statement of the victim girl has been recorded under Section 164 Cr.P.C. wherein she has not stated anything as if, the petitioner sexually assaulted her and that the petitioner has been suffering incarceration from 20.10.2020. Hence, 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 relative of the defacto complainant had kidnapped the minor daughter of the defacto complainant and taken her to Melmaruvathur Temple and tied Thali to her. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C. wherein, she has not stated anything as if, the petitioner assaulted her sexually and thereby, the victim girl was not subjected to medical examination.

5. Heard the learned Counsels on either side and perused the statement of the victim girl recorded under Section 164 Cr.P.C.

6. Taking into consideration 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 learned Judicial Magistrate-I, Attur, 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

(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 stands ordered.

-sd/-

11/12/2020

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 JUDICIAL MAGISTRATE,
NO.I, ATTUR

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ATTUR, SALEM DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

CC to M/S A.RAMESH Advocate on payment of necessary charges

CRL OP.19652/2020

Date : 11/12/2020

RVR 14/12/2020