

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2021

CORAM :

THE HON'BLE Mr. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.20593 of 2020

Aravinth

... Petitioner

Vs.

State

Rep. by The Inspector of Police,
Eriyoor Police Station,
Dharmapuri District.
(Crime No.979 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.979 of 2020 pending on the file of the Respondent.

For Petitioner : Mr.R.Neelakandan
for Mr.C.Mahendran

For Respondent : Mrs.M.Prabhavathi,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 12.11.2020 for the alleged offence punishable under Sections 9, 10 & 11 of Prohibition of Child Marriage Act, 2006 and 366(A) of IPC in Crime No.979 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant is that the victim is a minor girl, aged about 15 years and that she was found missing from 09.11.2020. Based on the complaint, a case was registered for the offence under Section 366A of IPC. During the course of investigation, it came to light that the petitioner is said to have kidnapped the minor girl. Earlier, the victim girl was given in marriage to one Marimuthu in the year 2017 and thereafter, the victim left the matrimonial home and residing with the parents. During that time, the victim developed intimacy with the petitioner and hence, on 09.11.2020, the petitioner kidnapped the victim. Therefore, the case was altered into Sections 9, 10 & 11 of Prohibition of Child Marriage Act, 2006 and 366(A) of IPC including the parents and other relatives of the victim girl.

3. The learned counsel appearing for the petitioner would submit that both the petitioner and the victim were in love and the victim, on her own volition, had come out from the house. He would submit that the victim girl was secured and the petitioner was arrested on 12.11.2020 and hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that the minor victim girl, who was given in marriage to her maternal uncle, was kidnapped by the petitioner. She would submit that the victim girl has been secured.

5. Heard the learned counsel for the petitioner as also the learned Additional Public Prosecutor appearing for the respondent. Perused the entire materials available on record.

6. Taking into consideration the facts and circumstances of the case and the fact that the victim girl was secured and also 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 Sessions Judge (FAC), 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 as and when required for interrogation;

(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/-
08/01/2021

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

2 THE JAILER,
DISTRICT PRISON,
DHARMAPURI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ERIYOOR POLICE STATION,
DHARMAPURI.

+1CC to M/S.C.MAHENDRAN Advocate on payment of necessary charges SR NO.247

CRL OP.20593/2020

Date :08/01/2021

MK:11/01/2021