



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 16/10/2020

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD). No.11238 of 2020

Satheesh Kumar

... Petitioner/1st Accused

Vs

State Rep. by
The Inspector of Police,
Emaneswaram Police Station,
Ramanathapuram District.
(Crime No. 234/2020).

... Respondent/Complainant

For Petitioner : M/s.M.S.Jeya Karthik, Advocate.

For Respondent : Mr.K. Suyambulinga Bharathi,
Government Advocate (Crl.Side)

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

PRAYER :-

For Bail in Crime No.234 of 2020 on the file of the Respondent Police

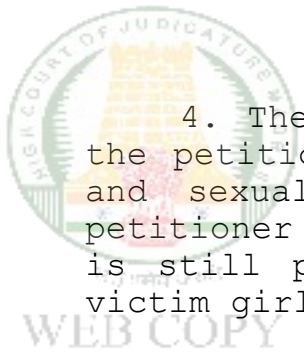
ORDER : The Court made the following order :-

The petitioner/A1, who was arrested and remanded to judicial custody on 30.08.2020 for the offences punishable under Sections 366A of IPC and Section 5(L) & 6 of POCSO Act, on the file of the respondent police seeks bail.

2.The case of the prosecution is that the petitioner fallen love with the victim who is aged about 17 years and eloped with victim girl. Based on a complaint given by the mother of the victim, the case has been registered under 'Girl Missing'.

3.The learned counsel for the petitioner would submit that on 25.08.2020, the victim girl on her own accord she went to her relatives house to met the petitioner. He would further submit that the petitioner is ready and willing to marry the victim girl and the victim girl is now residing in the house of the petitioner. He would further submit that whenever she attains majority, he will marry the victim girl. The petitioner has also filed an undertaking affidavit before this Court that whenever the victim girl attains majority he

<https://hsevisals.com/india/hsevisals/> Hence, he seeks bail.



4. The learned Government Advocate(Crl.Side) would submit that the petitioner kidnapped the minor victim girl aged about 17 years and sexually assaulted her. He would further submit that the petitioner was arrested and remanded on 30.08.2020 and investigation is still pending. He also produced the 161(3) statement of the victim girl.

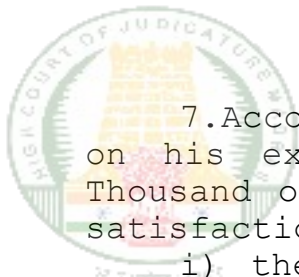
5.On perusal of the records including 164(5) Cr.P.C statement of the victim girl, it is seen that both the petitioner and the victim girl loved each other. The victim girl left the parental home on her own accord for the purpose of getting marriage and now the victim girl is residing in the petitioner's house and she has not completed 18 years, whenever the victim girl attains majority he would marry her and her date of birth is 03.06.2003. The affidavit filed by the petitioner is as follows;

"3.I most respectfully submit that alleged case of the prosecution is that the defacto complainant namely Santhana Mari is the mother of the victim girl namely Soundhara Nayaki, aged about 17 years. On 25.8.2020, at about 3.00 p.m the victim went to her relative's house, thereafter, she did not return back to home. Though, the defacto complainant searched the victim girl, she unable to trace out the whereabouts of the victim girl. With the above allegations, the defacto complainant lodged complaint before the respondent Police. Thereafter, the respondent Police filed alteration report with the allegation as against me as if I have love affair with the victim girl and abducted her.

4.I most respectfully submit that I did not commit any offence as alleged by the respondent. The Soundhara Nayaki, who is the victim girl in the present FIR and me loved each other. Our love affair was came to the knowledge of said Soundhara Nayaki's family, hence, she left out from her parental home. I further submit that the said Soundhara Nayaki's date of birth is 06.03.2003. After she attains majority, I will marry her. My parents also gave their consent to marry the said Soundhara Nayaki. Therefore, I am hereby giving undertaking that after the said soundhara Nayaki attains majority, I will marry her and I will not breach this undertaking".

From the statement, It is further seen that there is no physical relationship.

6.Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration, however, the petitioner is ready and willing to register their marriage, after attaining majority of the victim girl, this Court is inclined to grant bail to the petitioner subject to the following conditions:



7. 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 blood sureties each for a like sum to the satisfaction of the Fast Track Mahila Court, Theni.

i) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity

ii) the petitioner shall register the marriage after attaining majority of the victim girl. Thereafter, the petitioner is directed to produce their marriage registration certificate before the respondent herein, if the petitioner fails to marry the victim girl and register their marriage on or before 30.04.2021 the respondent police is directed to secure the petitioner and proceed in accordance with law.

iii) 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.

iv) the petitioner shall not tamper with evidence or witness.

v) the petitioner shall not abscond during trial.

vi) 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].

vii) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-
16/10/2020

/ TRUE COPY /

/ /2020

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1 THE JUDGE,
FAST TRACK MAHILA COURT, THENI.

2 THE INSPECTOR OF POLICE,
EMANESWARAM POLICE STATION,
RAMANATHAPURAM DISTRICT.

3 THE OFFICER INCHARGE,
DISTRICT PRISON, RAMANATHAPURAM.

4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. C.C. to M/S.M.S.JEYAKARTHIK, Advocate SR.No. 11238

ORDER

IN

CRL OP(MD) No.11238 of 2020

Date :16/10/2020

KSA

JM/PN/SAR III/16.10.2020/4P/6C