



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/12/2020

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PRESENT

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

CRL OP(MD). No.13175 of 2020

A.Manikandan ... Petitioner/Sole Accused

Vs

State Rep. by
The Inspector of Police,
Kayathar Police Station,
Tuticorin District.
Crime No. 663 of 2020.

... Respondent/Complainant

For Petitioner : M/s.M.Ashok Kumar,
Advocate.

For Respondent : Mr.R.Erottuchamy,
Government Advocate (Crl.Side)

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

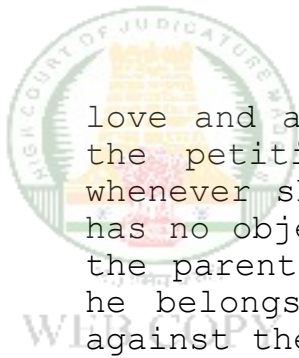
PRAYER :- For Bail in Crime No.663 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/sole accused, who was arrested and remanded to judicial custody on 09.10.2020 for the offences punishable under Sections 366(A) of IPC r/w. Section 5(1) r/w. 6 of Protection of Children from Sexual offences Act 2012 and Section 9 & 10 of the Child Marriage Act 2006 on the file of the respondent police seeks bail.

2.The case of the prosecution is that the petitioner fell in love with the minor victim girl aged about 17 years and eloped with him. Thereafter they had physical relationship after tying thali. On the complaint lodged by the mother of the victim girl initially case was registered as Girl Missing and subsequently altered to 366 (A) of IPC r/w. Section 5(1) r/w. 6 of Protection of Children from Sexual offences Act 2012 and Section 9 & 10 of the Child Marriage Act 2006.

3.The learned counsel for the petitioner would submit that both the petitioner and the victim girl are closely related and they fell in



love and also had physical relationship. He would also submit that the petitioner is ready and willing to marry the victim girl whenever she attains majority. Infact the parents of the petitioner has no objection for marriage of the petitioner with the victim only the parents of the girl did not agree for marriage proposal. Since he belongs to different community, a false case has been foisted against the petitioner.

4. The learned Government Advocate(Crl.Side) produced the copy of 164 Cr.P.C statement of the victim girl wherein she has clearly stated that the petitioner and the victim fell in love and they both had physical relationship. The victim girl is now aged about 17 years.

5. Taking note of the above facts and circumstances of the case and also taking into consideration the period of incarceration and also taking note of the fact that the petitioner is ready and willing to marry the victim girl whenever she attains majority, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail, subject to the following conditions

[a] the parents of the petitioner shall file an affidavit for their consent to get marriage between the petitioner and the victim girl before the Special Court for Exclusive trial of cases under POCSO Act Cases, Thoothukudi.

[b] On receipt of such affidavit ,the petitioner shall 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 Special Court for Exclusive trial of cases under POCSO Act Cases, Thoothukudi.

[c] the petitioner shall register the marriage with the victim girl namely Mariammal, D/o.Gopalakrishnan after she attains majority and produce the Marriage Registration Certificate before the respondent police and if the petitioner fails to register the marriage the bail granted by this Court shall stand cancelled automatically and respondent police is directed to secure the petitioner and proceed in accordance with law.

[d] 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

[e] the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.



[f]the petitioner shall not tamper with evidence or witness.

[g] the petitioner shall not abscond during trial.

[h]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].

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

sd/-

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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 SPECIAL JUDGE FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT CASES,
THOOTHUKUDI.
- 2 THE INSPECTOR OF POLICE,
KAYATHAR POLICE STATION,
TUTICORIN DISTRICT.
- 3 THE OFFICER INCHARGE,
SUB JAIL, PERAVOORANI,
THOOTHUKUDI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1 CC to M/s.M.ASHOK KUMAR, Advocate (SR-7807[I] dated 01/12/2020)

ORDER

IN

CRL OP(MD) No.13175 of 2020

Date :01/12/2020

AAV

JM/PN/SAR II/01.12.2020/3P/6C

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