



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

Date : 17/12/2020

WEB COPY

PRESENT

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

CRL OP(MD). No.14307 of 2020

Balakrishnan

... Petitioner/Accused No.1

Vs

The State rep.by
The Inspector of Police,
All Women Police Station,
Theni District.
Crime No.15 of 2020.

... Respondent/Complainant

For Petitioner : Mr.A.Mithun Chakravarthi,
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.15 of 2020 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/A1 herein was arrested and remanded to judicial custody on 01.11.2020 for the alleged offences under Section 6 of POCSO Act, and Sections 9, 10 and 11 of Prohibition of Child Marriage Act, 200, in Crime No.15 of 2020 on the file of the respondent Police, seeks bail.

2.The case of the prosecution is that the petitioner fell in love with the victim minor girl, who is aged about 17 years and on the pretext of marriage, they had physical relationship. Thereafter, the elders of the petitioner's family members have arranged their marriage and marriage was solemnized between the petitioner and the victim girl. Thereafter, the petitioner went for his employment. The parents of the first accused had driven the victim girl out from their house. Based on the complaint given by the victim girl, the present case has been registered.



3.The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the victim girl only came to the house of the petitioner and on the request of the victim girl, the marriage was solemnized and as such the petitioner did not commit any offence. He further submitted that the petitioner was arrested and remanded to judicial custody on 01.11.2020. He further submitted that the parents of the petitioner have filed affidavit stating that after attaining majority, the parents of the petitioner is ready and willing to register the marriage between the petitioner and the victim girl. He further submitted that the petitioner is in jail for more that 45 days. Hence, he may be granted bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police submitted that totally there are five accused in this case, in which, the petitioner has been arrayed as A1. The petitioner fell in love with the victim girl and on the pretext of marriage, they had physical relationship. Thereafter, the elders of the petitioner's family members have arranged their marriage and marriage was solemnized between the petitioner and the victim girl. Since the victim girl is aged about 17 years, the marriage has not been registered before the authority concerned. Thereafter, the petitioner herein went for his employment. Thereafter, the parents of the petitioner had driven the victim girl out from the matrimonial house. In the investigation, it reveals that the petitioner herein got married with another girl and their marriage was also registered before the register office. Therefore, the petitioner has committed very serious offence as against the victim girl. The learned Government Advocate (Crl. Side) has also produced the statement of the victim girl under Section 164(5) of Cr.P.C.

5.From the perusal of the records including the statement recorded under Section 164(5) of Cr.P.C, it is seen that totally there are five accused in this case, in which, the petitioner has been arrayed as A1. It is also seen that both the petitioner and the victim girl loved each other and on the pretext of marriage, they had physical relationship on several occasions. Thereafter, on compulsion of the elders of the petitioner's family, the marriage was solemnized between the petitioner and the victim girl and thereafter, the petitioner left her for his employment. Thereafter, the parents of the petitioner had driven the victim girl out from the matrimonial house. Now the petitioner got married with another girl and their marriage was registered before the register office. In this regard, this Court directed the victim girl to be present before this Court today. Today, the victim girl appeared and stating that the marriage was solemnized between the petitioner and victim girl. Thereafter, the petitioner had physical relationship with her on several occasions. Subsequently, the petitioner got married with another girl and their marriage was registered before



the register marriage. Therefore, the parents of the first accused have filed a false affidavit, since the first petitioner got married with another girl and the same was duly registered before the register office. Therefore, there is absolutely no possibility to register the marriage between the petitioner and the victim girl.

6. Considering the facts and circumstances of the case and the first petitioner has committed very serious offence as against the victim girl, this Court is not inclined to grant bail to the petitioner.

7. Accordingly, this Criminal Original Petition stands dismissed.

sd/-
17/12/2020

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/ /2021
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 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THENI DISTRICT.
2. THE SUPERINTENDENT,
CENTRAL PRISON, MADURAI.
3. THE ADDITIONAL PUBLIC PROSECUTOR
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

ORDER
IN
CRL OP(MD) No.14307 of 2020
Date : 17/12/2020

VSG
TK/VR/SAR.3/11.01.2021/3P/4C