

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2021

CORAM :

THE HON'BLE Mr. JUSTICE V.SIVAGNANAM

Cr1.O.P.No.1274 of 2021

M.Nagarajan

... Petitioner

Vs.

The State,
Rep. by the Inspector of Police,
Kalambur Police Station,
Thiruvannamalai District.
[Crime No. 2707 of 2020]

... Respondent

PRAYER: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2707 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : Mr.Charles Premkumar
Government Advocate (Cr1. Side)

ORDER

(The case has been heard through video conference)

[*]The petitioner, who was arrested and remanded to judicial custody on 28.11.2020 for the offences punishable under Sections 363 and 366-A Indian Penal code altered to Sections 363, 366(A) IPC & Section 5(1) r/w 6 of POCSO Act 2012 and Section 9 of the Prohibition of child Marriage Act 2006, in Crime No.2707 of 2020 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the petitioner along with A1 and A2 abducted the minor daughter of the defacto complainant.

3.The learned Counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since he is the friend of A1. He would further submit that the petitioner has been suffering incarceration from 28.11.2020 and this is the second bail application by the petitioner herein. Further the victim girl has been recovered by the respondent police. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl.Side) would vehemently opposed to grant bail to the petitioner stating that the petitioner is the friend of A1 and that the petitioner has confessed that he helped A1 to elope along with the victim girl. Now, the victim girl has been recovered by the respondent police.

5. Heard both sides and perused the documents.

6. The petitioner was incarcerated since 28.11.2020. Being a driver by profession, the petitioner herein driven the vehicle involved in the crime and helped the 1st accused to elope with the minor girl. There is no other over act has been attributed as against the petitioner herein. Further, the petitioner has not sexually assaulted the victim girl.

7. Therefore, considering the nature of the offence and the circumstances of the offence committed and the fact that the victim girl has been secured, I am 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.25,000/- (Rupees Twenty Five Thousand only), with two sureties each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of cases under POCSO Act, 2012 Tiruvannamalai' 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. for a period of one month thereafter 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 petitioners 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.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
08/02/2021

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.

[*] Clarified as per order of this Court dated 10/02/2020

TO

**[*] 1 THE SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT 2012, TIRUVANNAMALAI**

2 THE JUDICIAL MAGISTRATE,
ARNI.

3 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI. [FOR INFORMATION]

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KALAMBUR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 CC to M/S.B.GOPALAKRISHNAN Advocate on payment of
necessary charges SR.NO.1355

CRL OP.1274/2021

Date : 08/02/2021

TA-09/02/2021

MK:10/02/2021