

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.478 of 2021

Thirumoorthy

... Petitioner

Vs.

The State rep. by
Inspector of Police,
All Women Police Station,
Gummidipoondi,
Thiruvallur District.
(Crime No.1 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.1 of 2021 pending on the file of the respondent.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner is a sole accused. He apprehends arrest at the hands of respondent police for the offence punishable under Sections 366(A) of I.P.C. r/w Section 5(1) and 6 of Protection of Children Sexual Offences Act, 2012, in Crime No.1 of 2021 and now, he has filed the above petition seeking for anticipatory bail.

2. The case of the prosecution is that victim, a minor girl, aged 17 years old found missing from her house. Subsequently, it came to know that the petitioner, a close relative of the defacto complainant's family, kidnapped her for the purpose of getting married her and he said to have sexually assaulted her. Hence, based on the complaint given by victim girl's mother, the criminal case has been registered against the petitioner. Now, apprehending arrest, the present petition has been filed seeking to grant anticipatory bail.

3. The learned counsel appearing for petitioner would submit that the defacto complainant is none other than close relative of the petitioner and both the petitioner and the victim girl had loved each other and victim girl has intended to marry him. He would submit that the victim girl is aged 17 years and the petitioner is waiting for attaining majority. He would submit that in the meantime, based on the pressure given by the other relatives, the present complaint has been filed. He would submit that he is an innocent person and he is no way connected with the offence. He would also submit that he has been falsely implicated in this case. Hence, he prayed to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that victim girl is a minor and she is aged 17 years old. He would submit that the petitioner has sexually assaulted her and now, she has got pregnant. He would submit that the investigation is almost over and the victim girl has also given a statement under Sec.164 of Cr.P.C. However, he opposed to grant anticipatory bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records.

6. On considering the statement given by the victim girl stating that on her own, the victim girl left the parental house and lived with the petitioner and also taking into consideration of the fact that the investigation is also over, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate, Gummidipoondi, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, and on further condition that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

[c] the petitioner shall appear before the respondent police daily at 10.30 a.m. until further orders ;

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall not abscond either during investigation or trial;

[f] 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];

[g] 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/-
22/01/2021

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 JUDICIAL MAGISTRATE,
GUMMIDIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
GUMMUDIPOONDI,
THIRUVALLUR DISTRICT.

+1CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges SR NO.755

CRL OP.478/2021

Date :22/01/2021

MK:04/02/2021