

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.640 of 2021

Sakthivel

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
All Women Police Station,
Sankari, Salem District.
(Crime No.15 of 2020)

... 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. 15 of 2020 pending on the file of the respondent.

For Petitioner : Mr.T.Muruganantham

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 5(j) (ii) and 6 of The Protection of Children from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006 in Crime No.15 of 2020 and now, he has filed the above petition seeking for anticipatory bail.

2. The case of the prosecution is that the petitioner has got married a minor girl, aged about 16 years and also he has sexually assaulted her. Now, she has got pregnant and delivered a baby. In the said circumstances, based on the complaint given by the Social Welfare Officer, the criminal case has been registered against the petitioner and now, apprehending arrest, he is seeking anticipatory bail.

3. The learned counsel appearing for petitioner would submit that the petitioner has got married a girl without having knowledge that she is a minor and now they are living together and they had a child. He would submit that the petitioner is an innocent person and he is no way connected with the offence as alleged in the complaint. He would submit that he has been falsely implicated as accused in this case. Hence, he prays to grant anticipatory bail to the

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the victim girl is 16 years old and the petitioner, having the knowledge that she is a minor, he has got married and he has sexually assaulted her. He would submit that the investigation is almost completed. However, he opposed to grant anticipatory bail to the petitioner.

5. Taking into consideration the fact that, the occurrence taken place long ago and now the criminal case has been registered based on the complaint given by the Social Welfare Officer while the victim was admitted in hospital for delivery and it is also stated that without knowing the fact that the victim is a minor, the petitioner has got married her. Therefore, considering all those circumstances, 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 Special Court for POCSO Cases, Salem on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) each 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 as and when required for interrogation;

[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 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];

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

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

-sd/-

05/02/2021

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.

TO

1 THE SPECIAL COURT FOR POCSO
CASES, SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANKARI, SALEM.

CC to M/S.T.MURUGANANTHM Advocate on payment of necessary
charges sr.1226

CRL OP.640/2021

Date :05/02/2021

RVR 12/02/2021

सत्यमेव जयते

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