

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.848 of 2021

Ayothiraman

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station
Nannilam,
Tiruvavarur District
(Crime No.04 of 2019)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.04 of 2019 pending investigation on the file of the Respondent.

For Petitioner : Mr. N.Palanivel

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 15.12.2020 for the offences punishable under Section 366(A) of IPC and Sections 6 r/w Section 5(1) of Protection of Children from Sexual Offences Act 2012, in Crime No.04 of 2019, seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that the petitioner had kidnapped the minor victim girl, who is aged 16 years and under the guise of marrying her, sexually assaulted her and also kept her in a wrongful confinement for more than a year and hence, based on the complaint given by the parents of the victim girl, crime has been registered. The petitioner was arrested on 15.12.2020.

3. The learned counsel for the petitioner would submit that both the petitioner and the victim girl loved each other and the victim girl, on her own came out of the parental house in May 2019 and thereafter, they had gone to Tiruppur and living there for more than a year and thereafter, they had gone to Erode and living there for

another six months. Thereafter, the petitioner was arrested on 15.12.2020. Now the investigation is over and the victim girl was also rescued and handed over to her parents. He would further submit that the petitioner has been in judicial custody since 15.12.2020. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor strongly opposed this bail application stating that the petitioner kidnapped the victim girl in the year 2019 and kept her in his custody for more than a year and also sexually assaulted her. Now, the victim girl has given a statement before the Judicial magistrate and investigation is also over.

5. Considered the fact that the occurrence took place in May 2019 and from the statement of the victim girl recorded under Section 164 of Cr.P.C, it is seen that both the petitioner and the victim were living together for more than a year. Thereafter, based on the complaint, the petitioner was arrested and the victim girl has been rescued. Now investigation almost completed.

6. Considering the above facts and circumstances and also taking note that the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on his executing 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 Sessions Judge, Fast Track Mahila Court, Tiruvarur, 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 appear before the respondent police daily at 10.30 a.m until further orders.

(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 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

(h) 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 SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
TIRUVARUR.

2 THE OFFICER INCHARGE
DISTRICT PRISON, NAGAPATTINAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
NANNILAM, TIRUVARUR DISTRICT.

+1 CC to Mr. N.Palanivel Advocate on payment of necessary charges
SR.No.772

WEB COPY

CRL OP.848/2021

Date :22/01/2021

cs 25/01/2021