

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.833 of 2021

Anbu Sanjai

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Thalainayar Police Station,
Vadaranyam Tk.,
Nagapattinam Dt.
(Crime No.768 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.768 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mrs.S.T.P.Kuilmozhi

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 16.12.2020 for the offence punishable under Section 366 of I.P.C. r/w Section 5(1), 17 and 18 of POCSO (Amendment) Act, 2019 and Section 9 & 10 of Prohibition of Child Marriage Act, 2006, in Crime No.768 of 2020, seeks bail.

2. The case of the prosecution is that the victim girl is a minor, aged about 17 years. The defacto complainant is a father of victim girl. Earlier, finding victim girl missing, the defacto complainant has given a complaint before the respondent police. Subsequently, both the petitioner and the victim girl, on their own, appeared before the Deputy Superintendent of Police, Vedaranyam, and on enquiry, they have stated that they are in love, and the victim girl had eloped with the petitioner and gone to Tiruppur, wherein they have rented a house and lived there. On 04.12.2020, they got married and the petitioner has also sexual intercourse with the minor girl. Based on their statement, the crime has been altered to Sec.366A of I.P.C. u/s. 6 r/w Section 5 (1), 17 and 18 of POCSO (Amendment) Act, 2019 and Section 9 & 10 of

Prohibition of Child Marriage Act, 2006. Now, the present petition has been filed seeking bail.

3. The learned counsel appearing for the petitioner would submit that both the petitioner and the victim girl have fallen in love and when her parents opposed, the victim girl has left the parental house and went along with the petitioner. She would submit that after registering the F.I.R., both of them appeared before the Deputy Superintendent of Police, Vedaranyam, and on enquiry, they have stated that they are in love affairs, victim girl has eloped with the petitioner and gone to Tiruppur. She would submit that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case and hence, she prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has kidnapped the minor girl and also got married her. She would submit that after the marriage, he has sexually assaulted her and now, the victim girl was rescued. She would also submit that medical examination was also over and the victim girl has also given a statement under Section 164 of CrI.P.C. and the same was recorded. However, she vehemently opposed to grant bail to the petitioner.

5. Considering the above facts and circumstances and on considering the statement of victim girl that she is having love affair with the petitioner, she had also given statement before the Magistrate that on her own, she had left her home and stayed with the petitioner, and also considering the fact that the investigation as well as medical examination is also over, and the petitioner is in judicial custody from 16.12.2020, this Court is inclined to grant bail to the petitioner in 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 learned Special Court under POCSO Act, Nagapattinam, 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, daily at 10.30 a.m. for the period of four weeks;

(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 5560];

(h) 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/-

25/01/2021

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 SPECIAL COURT UNDER POCSO ACT,
NAGAPATTINAM.

2 THE INSPECTOR OF POLICE,
THALAINAYAR POLICE STATION,
VEDARANYAM TALUK,
NAGAPATTINAM DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE OFFICER INCHARGE,
SUB-JAIL, NAGAPATTINAM.

CC to M/S.S.T.P.KUILMOZHI Advocate on payment of necessary charges

CRL OP.833/2021

Date :25/01/2021