

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.1399 of 2021

Suriya

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
AWPS Dharapuram,
Tiruppur Dt.
(Crime No.848 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.848 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. C.S.Saravanan

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

ORDER

(The case has been heard through video conference)

The petitioner is a sole accused. He was arrested and remanded to judicial custody on 15.12.2020 for the offence punishable under Section 366 of I.P.C. 5(1), 6 of POCSO Act 17, in Crime No.848 of 2020, and now, he has filed this petition seeking for bail.

2. The case of the prosecution is that the victim girl is a minor, aged about 15 years and the petitioner has kidnapped the minor girl for the purpose of getting marriage with her. Based on the complaint of father of victim girl, the criminal case has been registered against the petitioner. Accordingly, he was arrested and remanded to judicial custody on 15.12.2020. 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, on her own, has left the parental house and went along with the petitioner. He would submit that he is an innocent person and he has not committed any offence as alleged by the prosecution. He would submit that he

has been falsely implicated in this case and hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that victim girl was a relative of the petitioner and they are in love affairs, and the petitioner kidnapped the minor for getting married her. She would submit that the statement of victim girl under Sec.164 of CrI.P.C. was recorded, in which, she has stated that when the father of victim girl harassed her to marry another boy, she on her own, has left her home, went to the petitioner's house and the parents of petitioner also agreed to arrange the marriage with the petitioner after she attains majority. However, she vehemently opposed to grant bail to the petitioner.

5. Taking into consideration of the facts and on perusal of statement of victim girl, it is seen that she is having love affair with the petitioner, when the father of victim girl had harassed her to marry another boy, she on her own has left the parental house, thereafter, she was advised, and she was sent back to her house and also considering the fact that the petitioner is in judicial custody from 15.12.2020, 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 Judicial Magistrate, Dharapuram, 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 two 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/-

02/02/2021

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 JUDICIAL MAGISTRATE,
DHARAPURAM.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUPPUR [FOR INFORMATION].

3 THE HONOURABLE POCSO COMMITTEE,
HIGH COURT, MADRAS.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION DHARAPURAM,
TIRUPPUR DISTRICT.

6 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

CC to M/S.C.S.SARAVANAN Advocate on payment of necessary charges

CRL OP.1399/2021

Date :02/02/2021