

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.1742 of 2021

Prabhu

... Petitioner

Vs.

State by
The Inspector of Police,
Cuddalore OT Police Station,
Cuddalore District.
(Crime No.17 of 2021) Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.17 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.V.Sakkarapani

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 13.01.2021 for the offence punishable under Sections 366 A of I.P.C. r/w Section 3 and 4 of Protection of Children from Sexual Offence Act, 2012 in Crime No.17 of 2021 on the file of respondent, seeks bail.

2. The case of the prosecution is that the victim girl is a minor, aged about 17 ½ years and she has eloped with the petitioner. The petitioner said to have kidnapped a minor girl for the purpose of getting married her. Subsequently, based on the complaint given by the mother of victim girl, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 13.01.2021. Now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that both the petitioner and the victim girl have loved each other. He would submit that on her own, the victim girl came out of her parents house and went to the petitioner's house. He would submit

that the petitioner has never kidnapped her, he has only advised her to go to her parents house. In the meantime, the criminal case has been registered and he was arrested. He would submit that the victim is on the verge of attaining majority, he has not kidnapped the minor girl. He would submit that he is an innocent person and he is no way connected with the offence. He would submit that he has been falsely implicated as accused in this case and he was in judicial custody for more than a month. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the victim girl is aged 17 ½ years old. She would submit that the petitioner has kidnapped the victim girl for the purpose of getting married her and also sexually assaulted her. She would submit that there is no criminal case pending against the petitioner. Hence, she opposed to grant 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. Taking into consideration of the fact that the victim girl is on the verge of attaining majority, the investigation is also completed, the victim girl is also rescued and also considering the period of incarceration suffered by the petitioner from 13.01.2021, 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 condition to execute 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 District Judge for POCSO Cases, Cuddalore** 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 as and when required for interrogation ;

(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 had 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.

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

-sd/-
10/02/2021

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 DISTRICT JUDGE FOR,
POCSO CASES, CUDDALORE.

2 HON'BLE POCSO COMMITTEE,
HIGH COURT, MADRAS.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CUDDALORE OT POLICE STATION,
CUDDALORE DISTRICT.

5 THE OFFICER INCHARGE
SUB-JAIL, CHIDAMBARAM.

CC to M/S.V.SAKKARAPANI Advocate on payment of necessary charges

CRL OP.1742/2021

Date :10/02/2021

TA-11/02/2021