

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.2290 of 2021

Shanmuganathan

... Petitioner

Vs.

State by

The Inspector of Police,
All Women Police Station,
Pennagaram,
Dharmapuri Dt.
(Crime No.16 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.16 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.R.Prabakar

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 18.12.2020 for the offence punishable under Sections 366 of I.P.C. and Section 3 and 4 of Protection of Children from Sexual Offence Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2002 in Crime No.16 of 2020 on the file of respondent, seeks bail.

2. The petitioner is a sole accused. The case of the prosecution is that the victim girl is very close relative of the petitioner and she is aged about 16 years. The victim girl was in love with the petitioner and subsequently, she has compelled him to marry her and the marriage was taken place on 27.11.2020. Thereafter, the parents of victim girl have filed a complaint before the Social Welfare Officer and subsequently, the victim girl was rescued. Accordingly, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 18.12.2020. Now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that the petitioner is a maternal uncle of the victim girl. He would submit that victim girl, on her own, was willing to marry the petitioner and without knowing the fact that she is a minor, the petitioner has got married her. He would submit that the petitioner has never kidnapped her, he has only advised her to go to her parents house. He would submit that he is an innocent person and he is no way connected with the offence. He would also submit that based on the complaint given by her parents, the Social Welfare Officer had rescued the girl and subsequently, he was arrested. He would submit that he has been falsely implicated as accused in this case and he was in judicial custody for more than two months. He would also submit that the investigation is also completed and the statement under Sec.164 of CrI.P.C. has been recorded from the victim girl, which would itself show that absolutely there is no allegation against the petitioner. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the victim girl is only aged about 16 years. She would submit that knowingly well that she is a minor, he has kidnapped the victim girl, married her and also sexually assaulted her. 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. On perusal of materials available on record and also the statement of victim girl, it could be seen that there is no forcible kidnapping and also no sexual assault made by the petitioner. Therefore, considering the above facts and circumstances and considering the fact that on her own, the victim girl has left the parental house and gone to the petitioner's house and also considering period of incarceration suffered by the petitioner from 18.12.2020, 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 Fast Track Mahila Court, Dharmapuri 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 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.

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 FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE SUPERINTENDENT,
DISTRICT JAIL, DHARMAPURI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PENNAGARAM, DHARMAPURI DISTRICT

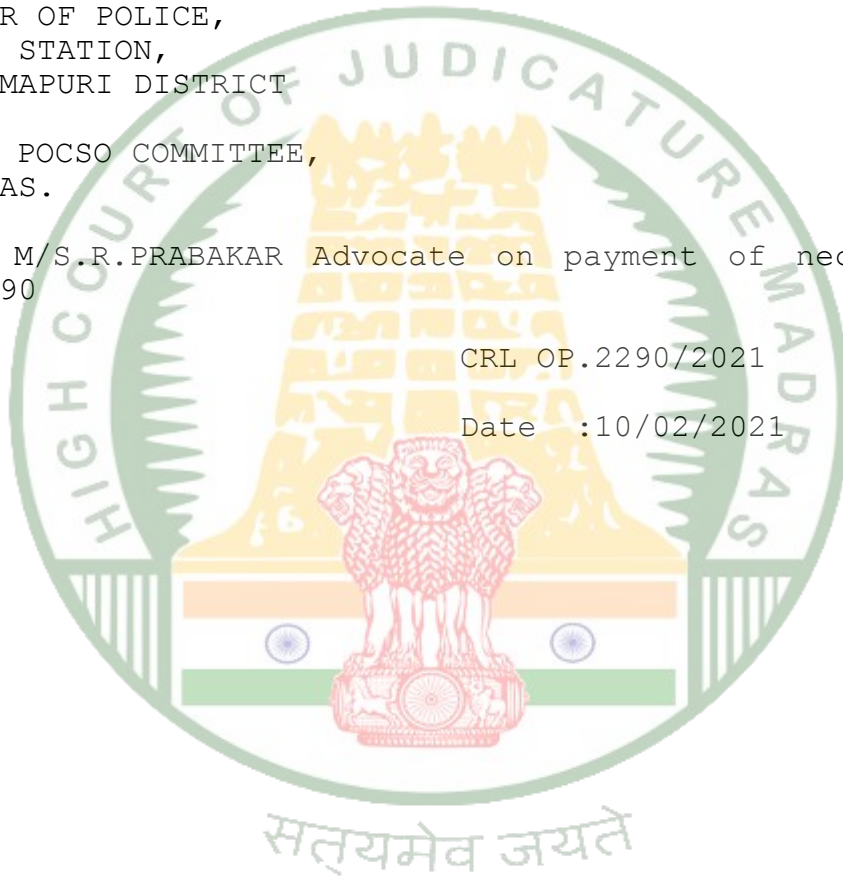
5 THE HON'BLE POCSO COMMITTEE,
HIGH COURT, MADRAS.

+1CC to M/S.R.PRABAKAR Advocate on payment of necessary
charges SR NO.1390

CRL OP.2290/2021

Date :10/02/2021

MK:11/02/2021



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