

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3173 of 2021

K.Anbu

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
AWPS Pennagaram Police Station,
Dharmapuri Dt.
(Crime No.17 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.17 of 2020 on the file of respondent police.

For Petitioner : Mr.T.Balachandran

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

O R D E R

(The case has been heard through video conference)

The petitioner is the sole accused. The petitioner, who was arrested and remanded to judicial custody on 22.12.2020 for the offence punishable under Sections 366 of I.P.C. r/w under Section 5(1), 5(j)(ii), and 6 of POCSO Act, 2012, r/w Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.17 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner and the victim girl are in love and the petitioner has kidnapped a minor girl and also got married. Thereafter, a child was also born to them. At the time of minor girl admitted for delivery, based on the complaint given by the hospital authorities, the criminal case has been registered against the petitioner, the petitioner was arrested and remanded to judicial custody on 22.12.2020. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that both the petitioner and the victim girl have loved each other and without knowing the fact, victim girl is a minor, both have got married and living together and a child was also born to them. He would submit that he is an innocent person and he is no way connected with the offence as alleged in the complaint. He would submit that he has been falsely implicated in the present case. He would submit that he was in jail for more than 55 days. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that victim girl is a minor. She would submit that based on the complaint given by the hospital authorities while she was admitted for delivery, the criminal case has been registered against the petitioner. She would further submit that there is no previous case pending against the petitioner. Hence, she opposed to grant bail to the petitioner.

5. Taking into the consideration of facts and circumstances, and also considering the period of incarceration suffered by the petitioner for more than 55 days, 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.

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

-sd/-
18/02/2021

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 OFFICER INCHARGE,
SUB-JAIL, DHARMAPURI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

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

CRL OP.3173/2021

Date :18/02/2021

MK:19/02/2021