

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3172 of 2021

Sakthivel

.. Petitioner

Vs.

The State represented by
Inspector of Police,
All Women Police Station,
Sangagiri, Salem.
(Crime No.2 of 2021)

.. Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code praying to enlarge the petitioners on bail in the event of their arrest in Crime No.2 of 2021 pending trial on the file of the respondent.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner is the sole accused. Apprehending arrest at the hands of the respondent police for the alleged offence under Sections 5(j)(ii) and 6 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9 of Prohibition of Child Marriage Act, 2006, in Crime No.2 of 2021 on the file of the respondent police, the petitioner seeks anticipatory bail.

2. The case of the prosecution is that the petitioner and the defacto complainant loved each other and got married against the wishes of their parents. At the time of marriage the defacto complainant was 16 years of age. After the said marriage she got pregnant and for delivery she was admitted in the Government Hospital, Erode. The doctor while examining the defacto complainant ascertained her age and found that her age was below 18 and therefore informed the respondent police. Hence, the respondent police registered a case against the petitioner.

3. The learned counsel appearing for the petitioner submitted that the petitioner married the defacto complainant

without knowing her age. The petitioner and the defacto complainant are living together and the petitioner is taking care of the defacto complainant. Hence, the learned counsel prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has married a minor girl and impregnated her.

5. Considering the facts and circumstances of the case, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions :

(a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Special Court for POCSO Act cases, Salem, on condition that the petitioner shall execute a separate bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

(b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity.

(c) The petitioner shall appear before the respondent police as and when required for interrogation.

(d) The petitioner shall not tamper with evidence or witness either during investigation or trial.

(e) The petitioner shall not abscond either during investigation or trial.

(f) On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioners 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].

(g) 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/-
19/02/2021

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 COURT FOR POCSO
ACT CASES, SALEM.

2 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANGAGIRI, SALEM DISTRICT.

+1 CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary
charges SR NO. 2081

CRL OP.3172/2021

Date :19/02/2021

MN-01/03/2021

WEB COPY