

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Seventeenth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.3351 of 2021

KISHOTHARAN

[PETITIONER / ACCUSED]

Vs

STATE REP BY,
INSPECTOR OF POLICE,
VELIPALAYAM POLICE STATION,
NAGAPATTINAM DISTRICT.
CRIME NO.1316 OF 2020.

[RESPONDENT]

For Petitioner : M/S.J.JAWAHAR Advocate

For Respondent : MR. S.KARTHIKEYAN, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who apprehends arrest for the alleged offences under Sections Girl Missing subsequently altered into u/s 6 r/w, 5 (u) (ii), 5 L of Protection of Children from Sexual Offences Act 2012 and 9 of Protection of Child Marriage Act in Crime No.1316 of 2020, on the file of the respondent/Police, seek anticipatory bail.

2. The petitioner is the sole accused in this case. It is alleged that the petitioner said to have kidnapped the minor victim girl aged 16 years and sexually assaulted her. Based on the complaint given by the aunt of the victim girl, the case came to be registered.

3. The learned counsel for the petitioner submitted that the victim girl is a minor and both the petitioner and the victim girl loved each other and the victim girl on her own volition came out of her house and eloped with the petitioner. Now the petitioner married the victim girl and they are living together as husband and wife in the matrimonial home and out of the wedlock the victim girl delivered a female child. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the victim girl is a minor and the petitioner kidnapped her and sexually assaulted her. He would further submit that now the victim girl is not supporting the case of prosecution.

5. Considering the facts and circumstances of the case and also taking note of the fact that the petitioner and the victim girl were living together as husband and wife and the victim girl also delivered a child and the victim girl is not supporting the case of prosecution, this court is inclined to grant anticipatory bail to the petitioner with stringent conditions.

6. Accordingly, the petitioner is ordered to be released on bail in their event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Judicial Magistrate, No.1 Nagapattinam on condition that the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which this petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix his 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.

[b] the petitioner shall report before the respondent police as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229 A IPC.

With the above directions this Criminal Original petition is ordered.

-sd/-
17/03/2021

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 NO.I,
NAGAPATTINAM.

2 THE CHIEF JUDICIAL MAGISTRATE
NAGAPATTINAM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VELIPALAYAM POLICE STATION,
NAGAPATTINAM DISTRICT.

CC to M/S.J.JAWAHAR Advocate on payment of necessary charges

CRL OP.3351/2021

Date :17/03/2021

MK:08/04/2021

WEB COPY