

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Fourth day of March Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice V. BHARATHIDASAN

CRIMINAL ORIGINAL PETITION No.3645 of 2021

SHANMUGAM

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SOORAMANGALAM POLICE STATION,
SALEM DISTRICT.
(CR.NO.24/2020)

For Petitioner : M/S.K.KALAIKOVAN 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 :-

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest in connection with the case in Crime No.24 of 2020 on the file of the respondent police for the alleged offence punishable under Sections 363, 366 of IPC and Section 5(1) of The Protection of Children from Sexual Offences Act (POCSO Act) and 5(i) (ii) (j) r/w 6 of The Protection of Children from Sexual Offences Act (POCSO Act) , seeks anticipatory bail.

2. I have heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and also perused the records carefully.

3. The petitioner is the sole accused in the case. According to the petitioner, the petitioner had kidnapped the victim, aged 17 years, married and sexually abused her and made her pregnant. When the victim was admitted for delivery of child in a Government hospital, on coming to know the victim was a minor, the hospital authorities have given a complaint upon which the case has been registered.

4. The learned counsel for the petitioner would submit that both the petitioner and the victim were loving each other and they got married. The petitioner was not aware of the fact that the victim was a minor. After the marriage, the petitioner and the victim have been living together as husband and wife and the victim had become pregnant. Though the victim had delivered a child in the hospital, it died on the next day itself.

5. The learned Additional Public Prosecutor would on the other contend that the victim was a minor at the time of occurrence and the petitioner married and sexually abused her due to which she had become pregnant. Though she had delivered a child, the child died on the next day of delivery. He would, however, submit that the victim had not given any statement to the respondent police.

6. Considering the fact that both the victim and the petitioner have been living together as husband and wife and the other facts and circumstances of the case including the fact that the case has been registered only on a complaint from the hospital authority where the victim was admitted for delivery of child and the victim was said to have been reluctant to give a statement to the police, 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 learned Judicial Magistrate-II, Salem, Salem District**, on executing 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, 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 report before the respondent police as and when required by the police 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 petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate himself /Trial Court 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.

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

-sd/-
04/03/2021

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.II, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SOOLAMANGALAM POLICE STATION,
SALEM DISTRICT.

+1 CC to M/S.K.KALAIKOVAN Advocate on payment of necessary charges SR.NO.2751

CRL OP.3645/2021

Date :04/03/2021

WEB COPY

TA-15/03/2021