

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3712 of 2021

Parisathkumar

... Petitioner

Vs.

State by
The Inspector of Police,
All Women Police Station, (East)
Coimbatore Dt.
(Crime No.23 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.23 of 2020 on the file of respondent police.

For Petitioner : M/s.T.Gnanabanu

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

ORDER

(The case has been heard through video conference)

The petitioner is a sole accused. The petitioner, who was arrested and remanded to judicial custody on 23.12.2020 for the offence punishable under Sections 366 of I.P.C. 9(1), 10 of POCSO Act and 9 of Child Marriage Act, in Crime No.23 of 2020, seeks bail.

2. The case of the prosecution is that victim girl, daughter of defacto complainant, aged about 17 years and she was found missing. Based on the complaint given mother of victim girl, an enquiry was conducted and the subsequent investigation reveals that the petitioner has kidnapped a minor girl and also got married her. Hence, a criminal case has been registered, and the petitioner was arrested and remanded to judicial custody on 23.12.2020. 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 fallen in love and she, on the verge of attaining majority, she had left her parental home and married the petitioner. He would submit that when her parents opposed, the victim girl has voluntarily left the

parental house and went along with the petitioner. He would submit that the petitioner has only advised her to go to her home. In the meantime, the complaint was given by the mother of victim girl stating that the petitioner has kidnapped her, married and also sexually harassed her, he was arrested on 23.12.2020 and he is in jail for more than two months. 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. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has kidnapped the minor girl and also sexually assaulted her. He would submit that the investigation is still pending and the victim has also given a statement under Sec.164 of Cr.P.C. before the Judicial Magistrate. She would also submit that there is no previous case pending against the petitioner. Hence, she opposed to grant bail to the petitioner.

5. On perusal of statement of victim girl, it would show that both the petitioner and the victim girl have loved each other, she on her own has eloped with the petitioner and on the complaint given by mother, the petitioner was arrested and the victim girl was also rescued. Taking into consideration of the fact that the investigation is almost completed, no previous case pending against the petitioner 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 Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore**, 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 daily at 10.30 a.m. for the period of two weeks;

(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/-

01/03/2021

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 SPECIAL COURT FOR EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION (EAST),
COIMBATORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 CC to M/S.T.GNANABANU Advocate on payment of necessary
charges SR.NO.2526

CRL OP.3712/2021

Date :01/03/2021

TA-02/03/2021