

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.4133 of 2021

Rajkumar

... Petitioner

Vs.

State represented by

The Sub Inspector of Police,
All Women Police Station,
Arni, Tiruvannamalai District.
Crime No.1 of 2021.

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.1 of 2021 on the file of the respondent police.

For Petitioner : Mr.B.Mahendra Naidu

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

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 03.02.2021 for the offence punishable under Sections 376 of IPC and Section 3(a), 4, 5(1), 5(i)(ii) and Section 6 of POCSO Act in Crime No.1/2021, seeks bail.

2. The case of the prosecution is that the petitioner has kidnapped the victim girl, who is aged about 16 years and also committed aggravated penetrative sexual assault against the victim girl. Hence, a case has been registered against the petitioner.

3. The learned counsel for the petitioner would submit that the defacto complainant and the petitioner loved each other and the victim girl on his own volition, left the parental home and eloped with the petitioner. He would further submit that now the victim girl

has been secured and investigation is almost over. He would further submit that the parents of the petitioner is also ready and willing to conduct the marriage of the victim girl and the petitioner, after she attaining majority. Hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that on the false promise of getting marriage, the petitioner kidnapped the victim girl and sexually assaulted her. She would further submit that now, the victim girl has been secured and investigation has also been completed. However, she opposed to grant bail to the petitioner.

5. I have considered the submissions made on either side and also perused the materials available on records carefully, including the 164 Cr.P.C. statement of the victim girl.

6. From the perusal of the records, it could be seen that both the petitioner and the victim girl loved each other. The petitioner is also willing to marry the victim girl and the victim girl on her own left the parental house.

5. Considering the said facts and circumstances of the case and the fact that investigation is almost over and the victim girl has been secured and also considering the period of incarceration suffered by the petitioner, 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 Judicial Magistrate, Arni, 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 shall report before the respondent police daily at 10.30 a.m., until further orders;

(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/-

03/03/2021

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,
ARNI.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVANNAMALAI [FOR INFORMATION]

3 THE OFFICER INCHARGE
SUB JAIL, TIRUVANNAMALAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE SUB INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
ARNI, TIRUVANNAMALAI DISTRICT.

+1 CC to M/S.B.MAHENDRA NAIDU Advocate on payment of necessary charges SR.No.2719

CRL OP.4133/2021

Date :03/03/2021

cs 05/03/2021