

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.4128 of 2021

Poovarasan

... Petitioner

Vs.

State by:-

The Inspector of Police,
Harur Police Station,
Dharmapuri District.
Crime No.1592 of 2020.

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to grant bail to the petitioner pending investigation in Crime No.1592 of 2020 on the file of the respondent police.

For Petitioner : Mr. M.Jayachandran

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

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 18.12.2020 for the offence punishable under Sections 363, 366 of IPC @ 5(I), 6 of POCSO Act and under Section 9 of Prohibition of Child Marriage Act 2006 in Crime No.1592/2020, seeks bail.

2. Totally, there are two accused and the petitioner is arrayed as A1. A2 is the brother of the petitioner. The case of the prosecution is that the petitioner has kidnapped the victim girl, who is aged about 17 years and forcibly married her and had sexual intercourse with her against her wish. Hence, the complaint came to be registered.

3. The learned counsel for the petitioner would submit that petitioner has not committed any offence as alleged by the prosecution. The petitioner and the victim loved each other, and the victim girl, on her own volition, eloped with the petitioner. He would further submit that 164 CRPC statement of the victim has been recorded, in which, the victim has admitted that on her own Will , she left the parental home and eloped with the petitioner. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that victim is a minor girl. The petitioner kidnapped the victim with an intention to sexually assault her and he married her. She would further submit that 164 CRPC statement of the victim has been recorded. However, she opposed to grant bail to the petitioner.

5. Considering the fact that in 164 CRPC statement of the victim, the minor girl on her own, left the home and gone with the petitioner 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 Judge, Mahila Court, Dharmapuri, 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., for a period of two weeks and thereafter as and when required for interrogation;

(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 MAHILA COURT,
DHARMAPURI.

2 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
HARUR POLICE STATION,
DHARMAPURI DISTRICT.

+1 CC to M/S.M.JAYACHANDRAN Advocate on payment of necessary charges SR.No.2722

CRL OP.4128/2021

Date :03/03/2021

cs 05/03/2021