

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.5027 of 2021

R. Nandha

... Petitioner

Vs.

State by:-

... Respondent

Inspector of Police,
W-1, AWPS Police Station,
Thousand Lights.
Crime No.1 of 2021.

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

For Petitioner : Mr. R. Krishnakumar

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 12.02.2021 for the offence punishable under Sections 376 r/w 417 of I.P.C and Sections 5(1) and 6 of the Protection of Children from sexual Offences Act 2012 (in short, "the POCSO Act" r/w 506(i) of I.P.C) in Crime No.1 of 2021, seeks bail.

2. The petitioner is the sole accused in this Case. The case of the prosecution is that the petitioner and the defacto complainant loved each other and the petitioner had sexual intercourse with the defacto complainant when she was minor, on the promise that he would marry her. Subsequently, the petitioner refused to marry her. Hence, a case has been registered against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner and the defacto complainant loved each other and there is no sexual intercourse between them as alleged by the prosecution. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner kidnapped the victim, and with a false promise to marry her sexually assaulted her and when the defacto complainant demanded to marry her, he refused to marry her. Hence, she opposed to grant bail to the petitioner.

5. Considering the fact that and circumstances of the case and the fact that the petitioner and the victim girl loved each other for several years and the main allegation is that the petitioner is now refusing to marry her 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 Special Court for exclusive trial of cases under the POCSO Act, Chennai 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/-
22/03/2021

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, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-1, AWPS POLICE STATION,
THOUSAND LIGHTS, CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

+1 CC to M/S.R.KRISHNAKUMAR Advocate on payment of necessary
charges SR NO. 3788

CRL OP.5027/2021

Date :22/03/2021

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