

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.4878 of 2021

Karthick

... Petitioner

Vs.

State rep. By
The Inspector of Police,
Singarapettai Police Station,
Krishnagiri.
(Crime No.44 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.44 of 2021 on the file of Respondent police.

For Petitioner : Mr.S.Sathish Rajan

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

O R D E R

(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 12.02.2021 for the offence punishable under Sections 363, 366 of I.P.C. and Section 6 r/w Section 5(1) of POCSO Act, in Crime No.44 of 2021 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the victim is a minor girl, aged about 14 years. The petitioner has loved the minor girl, thereafter, kidnapped the victim girl, and also sexually assaulted her. Based on a complaint given by the father of victim girl, the criminal case has been registered against the petitioner, and the petitioner was arrested and remanded to judicial custody on 12.02.2021. 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 loved each other and, the victim girl on her own, came out of the parents house and went to the petitioner's house, and he had advised her and sent back her to her house. He would submit that there is no allegation of sexual assault and he is always ready and willing to marry her after she attain

majority. In the meantime, the complaint was given by the father of victim girl and he was arrested on 12.02.2021 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 victim is a 14 years minor girl and the petitioner has only kidnapped her. Hence, the crime was registered against him. Now, the victim girl has given a statement under Sec.164 of Cr.P.C. before the Judicial Magistrate and produced the case diary. She would also submit that there is no bad antecedents against the petitioner and the investigation is almost completed. Hence, she strongly opposed to grant bail to the petitioner.

5. On perusal of records including the statement of victim girl recorded under Sec.164 of Cr.P.C., it could be seen that the statement of victim girl is not supporting the prosecution case and she has only stated that she on her own left her parents house and gone to the petitioner's house and both of them have stayed in his relative house. There is no allegation of sexual assault. On the complaint given by parents, the petitioner was arrested and the victim girl was also rescued. Taking into consideration of the facts and circumstances and also considering the period of incarceration suffered by the petitioner from 12.02.2021, 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, Uthangarai 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, after his release from prison, shall report before the respondent police daily at 10.30 a.m. for the 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/-

19/03/2021

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,
UTHANGARAI.

2 THE CHIEF JUDICIAL MAGISTRATE,
KRISHNAGIRI [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SINGARAPETTAI POLICE STATION,
KRISHNAGIRI.

5 THE SUPERINTENDENT,
SUB-JAIL, HOSUR.

CC to M/S.S.SATHISH RAJAN Advocate on payment of necessary charges

CRL OP.4878/2021

Date :19/03/2021

EP-22/03/2021