

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.4918 of 2021

Rajesh

... Petitioner

Vs.

State Rep. by
Inspector of Police,
All Women Police Station,
Avinashi,
Tiruppur District.
(Crime No.2 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.2 of 2021 on the file of the respondent police.

For Petitioner : Mr.P.Kalimuthu

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 29.01.2021 for the offences punishable under Section 366 of IPC r/w. 7 & 8 of Protection of Children from sexual Offences Act 2012 in Crime No.2 of 2021, seeks bail.

2. The case of the prosecution is that the petitioner was in love with the victim girl, aged about 17 years. He kidnapped her for the purpose of getting marriage and took her to Salem and thereafter, took her to Thiruvannamalai, where, he tried to sexually assault her. Thereafter, he bring her back to Avinashi and dropped her. Thereafter, based on the complaint given by the mother of the victim the case has been registered.

3. The learned counsel appearing for the petitioner would submit that both the petitioner and the victim loved each other. Even as per the First Information Report, there is no allegation of sexual assault. Now, the girl has been secured and the petitioner is in jail for more than 40 days. Hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the victim girl is a minor. The petitioner forcibly kidnapped the victim girl for the purpose of getting marriage. Now, the victim girl has been secured. However, she opposed to grant bail to the petitioner.

5. Considering the facts and circumstance of the case and even as per the First Information Report, the petitioner took the victim girl to various places and finally, left her in her parental home and there is allegation of sexual assault 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 Magalir Neethimandram (Fast Track Mahila Court), Tiruppur, 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 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/-
11/03/2021

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 MAGALIR NEETHIMANDRAM
(FAST TRACK MAHILA COURT), TIRUPPUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AVINASHI,
TIRUPPUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.

CC to M/S.P.KALIMUTHU Advocate on payment of necessary charges

CRL OP.4918/2021

Date :11/03/2021

TA-12/03/2021

WEB COPY