

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

CrI.O.P.No.5273 of 2021

M.Thangaraj

... Petitioner

Vs.

The State of Tamil Nadu,
Rep. by the Inspector of Police,
W-13, Tondairpet All Women Police Station,
Chennai.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.42 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.M.Illiyas

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 18.02.2021 for the offence punishable under Section Girl Missing 366 of IPC under Section 6 of POCSO Act, in Crime No.42 of 2021, seeks bail.

2. The case of the prosecution is that the petitioner and the defacto complainant loved each other and the petitioner kidnapped the victim girl for marrying her and also sexually assaulted her. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that both the petitioner and the victim girl loved each other, and she on her own left her home and came to the petitioner house and compelled him to marry her, the petitioner advised the victim girl, then she went back her parents house. In the mean time, on the complaint given by the father of the defacto complainant, the crime has been registered. He would further submit that the petitioner is in judicial custody from 18.02.2021. Hence, he seeks bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner had kidnapped the minor girl and sexually assaulted her. He would further submit that the minor girl was rescued. After investigation, the statement of the victim girl was recorded under Section 164 of Cr.P.C.

5. Considered the rival submissions made on either side.

6. On perusal the statement of victim girl given under Section 164 of Cr.P.C, it reveals that she is not supporting the prosecution case. According to on her own left her home. On the Petitioner did not kidnapped her. Taking into consideration the above facts and circumstances of the case and also taking note of the fact that the petitioner is in jail from 18.02.2021, 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 Judge, Special Court for Exclusive Trial of Cases under 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, on his release from prison, 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 JUDGE, SPECIAL COURT FOR EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT, CHENNAI.

2 THE INSPECTOR OF POLICE,
W-13, TONDAIRPET ALL WOMEN POLICE STATION,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

+1 CC to M/S.M.ILLIYAS Advocate on payment of necessary charges
SR NO. 3816

सत्यमेव जयते

CRL OP.5273/2021

Date :22/03/2021

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