

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.5865 of 2021

Panneerselvam

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Bhavani Sagar Police Station,
Erode Dt.
(Crime No.72 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.72 of 2021 on the file of Respondent police.

For Petitioner : Mr.S.Parthasarathy

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

ORDER

(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 16.02.2021 for the offence punishable under Sections 366A of I.P.C. and Section 5(1), r/w 6 of POCSO Act, 2012 in Crime No.72 of 2021 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the victim is a daughter of defacto complainant, who is minor, aged about 15 years. The petitioner had kidnapped the victim girl for the purpose of getting married her and also sexually assaulted her. Hence, the criminal case was registered against the petitioner and he was arrested and remanded to judicial custody on 16.02.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that he has not kidnapped the minor girl and only due to some previous enmity, a false complaint has been filed against the petitioner. He would submit that the petitioner is in jail for more than one month. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that based on the complaint given by father of victim girl that he has only kidnapped the minor girl and also sexually assaulted her. Hence, the crime was registered against him. Now, victim girl has given a statement under Sec.164 of Cr.P.C. before the Judicial Magistrate and the copy of statement was produced before this court, which is not supporting the prosecution case. She would also submit that there is no bad antecedents pending 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 would show that victim girl is not supporting the prosecution case. According to her, since her parents are frequently quarreled each other, she had left her house and gone to friends house for some time, without knowing the fact that the father has given a complaint as if the petitioner had kidnapped her. 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 16.02.2021, 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, Sathyamangalam 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 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.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-
24/03/2021

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,
SATHYAMANGALAM.

2 THE CHIEF JUDICIAL MAGISTRATE
ERODE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
BHAVANI SAGAR POLICE STATION,
ERODE DISTRICT.

5 THE OFFICER INCHARGE,
DISTRICT JAIL, GOBICHETTIPALAYAM.

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

WEB COPY

CRL OP.5865/2021

Date :24/03/2021

MN-25/03/2021