

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.5927 of 2021

Sundharesan

... Petitioner

Vs.

State rep. by

The Inspector of Police,
All Women Police Station,
Poonamallee.

(Crime No.119 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.119 of 2021 on the file of Respondent police.

For Petitioner : Mr.N.Shanmuga Thayumanavan

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 06.03.2021 for the offence punishable under Sections 363 of I.P.C. and Section 6 of POCSO Act, 2012 in Crime No.119 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 a minor. She was kidnapped by the petitioner and married her and also sexually assaulted her. Originally, the criminal case was registered for Girl Missing and on subsequent investigation, the F.I.R. was altered into for the above said offence. Accordingly, the petitioner was arrested and remanded to judicial custody on 06.03.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner was in love with the victim girl for several years and on her own, she voluntarily came out of the house and went with the petitioner. He would submit that the petitioner has only advised her and sent back to her parental house. He would submit that there is no allegation of sexual assault and the victim girl has also given a statement under Sec.164 of Crl.P.C. before the Judicial Magistrate, which would clearly show that there is no sexual assault and the petitioner only sent her back to parental house. In the meantime, the complaint was given by the parents of victim girl and he was arrested on 06.03.2021 and he is in jail from 06.03.2021. 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 only the petitioner has kidnapped the victim girl, and also sexually assaulted her. Hence, the crime was registered against him. Now, the investigation would reveals that victim girl has given a statement under Sec.164 of Cr.P.C. before the Judicial Magistrate. 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 could be seen that both the petitioner and the victim girl have loved each other and she, on her own, left her house and gone to the petitioner's house and both had gone to to Madurai and stayed in their grandmother's house for some time, wherein, her grandfather advised her and sent her back. Thereafter, a mediation was conducted and both the parents have agreed for a marriage after she attains majority. Taking into consideration of the fact that it is not the case of kidnapping and prima facie, there is no material available for kidnapping and other offences, and also considering the period of incarceration suffered by the petitioner from 06.03.2021, 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 District Mahila Judge (Fast Track Court) at Tiruvallur 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.

6. 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 DISTRICT MAHILA JUDGE,
(FAST TRACK COURT), TIRUVALLUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

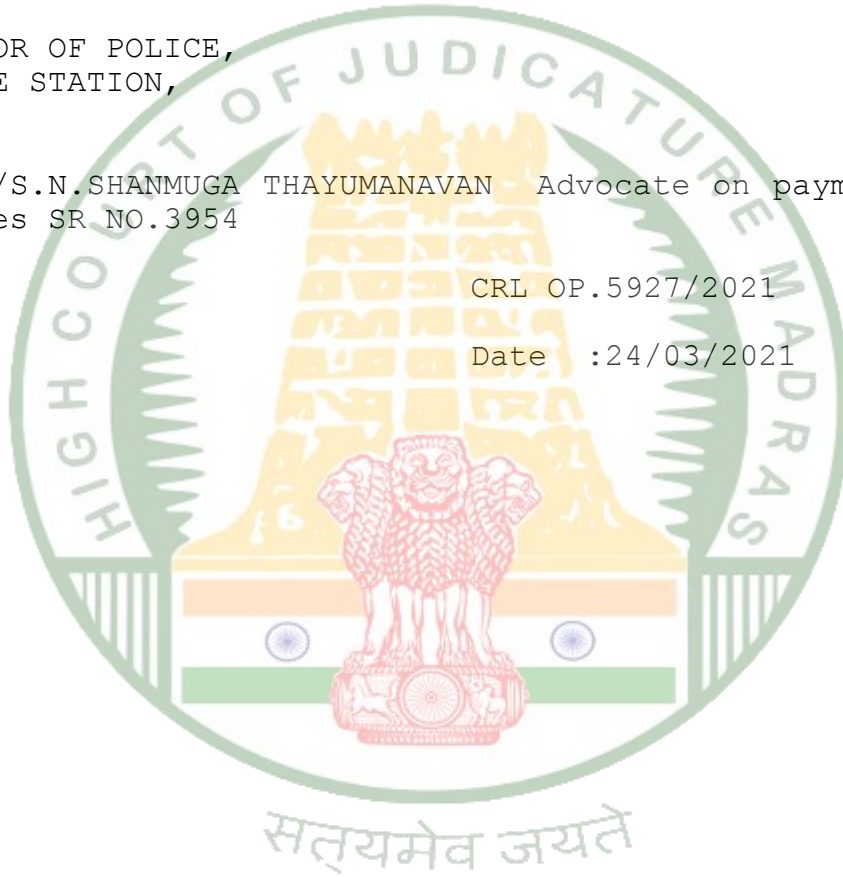
4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
POONAMALLEE.

+1CC to M/S.N.SHANMUGA THAYUMANAVAN - Advocate on payment of
necessary charges SR NO.3954

CRL OP.5927/2021

Date :24/03/2021

MK:25/03/2021



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