

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.5921 of 2021

Prasanna @ Prasannadoss

... Petitioner

Vs.

State rep by
Inspector of Police,
Tiruvannamalai Town Police Station,
Tiruvannamalai District
Cr.No.43 of 2021

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in in connection with Crime No.43 of 2021, on the file of the respondent.

For Petitioner : Mr.A. Saravanan

For Respondent : Mrs.M. Prabhavathi,
APP

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 08.02.2021 for the offence punishable under Sections 366-A, 376(1) of IPC and Section 3(a) and 4 of Protection of Child from sexual offences Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.43 of 2021, seeks bail.

2. The petitioner is the sole accused in this Case. The case of the prosecution is that the petitioner said to have kidnapped the minor victim girl and without her consent married her and sexually assaulted her. Based on the complaint given by the father of the victim girl, the case came to be registered.

3. The learned counsel for the petitioner would submit that the petitioner and the victim girl loved each other for several years and the victim girl on her own volition only came out of her house for marrying the petitioner and the petitioner does not kidnap her. He would further submit that the petitioner was arrested on 08.02.2021 and he was in judicial custody for more than 45 days. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner said to have kidnapped the minor girl and without her consent married her and sexually assaulted her. She would further submit that 164 Cr.P.C. statements was recorded from the victim girl and the investigation is almost completed. Hence, she vehemently opposed to grant bail to the petitioner.

5. I have considered the submissions made on either side and also perused the materials available on records carefully, including the 164 Cr.P.C. statement of the victim girl

6. On perusal of the 164 Cr.P.C. statement of the victim girl, it is clear that the victim girl is not supporting the case of the prosecution and she only eloped with the petitioner on her own volition left the house and compelled the petitioner to marry her.

7. Considering the said facts and circumstances of the case and the fact 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 Special Court for Trial of cases under POCSO Act 2012, Tiruvannamalai 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 shall appear 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/-
30/03/2021

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 SPECIAL COURT FOR TRIAL
OF CASES UNDER POCSO ACT 2012,
TIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
TIRUVANNAMALAI TOWN POLICE STATION,
TIRUVANNAMALAI DISTRICT

+1CC to M/S.A.SARAVANAN Advocate on payment of necessary charges SR NO.4264

CRL OP.5921/2021

Date :30/03/2021

MK:31/03/2021