

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.6049 of 2021

S. Sundaramurthy @ Sundar

... Petitioner

Vs.

State rep by
Inspector of Police,
Tiruvannamalai East Police Station,
Tiruvannamalai District
(Crime No.70 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.70 of 2021, on the file of the respondent.

For Petitioner : Mr.M.Krishnamoorthy

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 16.02.2021 for the offence punishable under Sections 366 (A) @ 366(A), 376(1) of I.P.C and Section 5(1) and 6 of POCSO Act 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006 in Crime No.70 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 for the purpose of marrying 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 both the petitioner and the victim girl loved each other. He would further submit that on the date of occurrence the victim has attained majority, as per her school certificate her date of birth was 07.06.2002. She on her own volition came out of her parental house and the petitioner did not kidnap her. In the mean time based on the complaint given by the father of the victim girl the case came

to be registered and the petitioner was arrested on 16.02.2021 and he was in judicial custody for more than 50 days. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the victim girl is minor, her birth certificate reveals her date of birth as 19.05.2003 and on the date of occurrence she has completed 17 years and the petitioner said to have kidnapped the minor girl for the purpose of marrying her. She would further submit that the victim girl was rescued and the investigation is almost completed. However, she vehemently opposed to grant bail to the petitioner.

5. Considering the said facts and circumstances of the case and the fact that both the petitioner and the victim girl loved each other and there is a dispute regarding the date of birth of the petitioner, that apart the victim girl was rescued and the investigation is almost completed 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 Exclusive Trial of cases under POCSO Act, 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/-
31/03/2021

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 EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT, TIRUVANNAMALAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
TIRUVANNAMALAI EAST POLICE STATION,
TIRUVANNAMALAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 CC to M/S.M.KRISHNAMOORTHY Advocate on payment of necessary
charges SR.NO.4318

CRL OP.6049/2021

Date :31/03/2021

TA-01/04/2021

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