

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.6039 of 2021

Sathasivam

... Petitioner

Vs.

State rep by
Inspector of Police,
Udhukuli Police Station,
Tiruppur
Cr.No.96 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.96 of 2021, on the file of the respondent.

For Petitioner : Mr.J. Franklin

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 05.02.2021 for the offence punishable under Sections 5(1) r/w 6 of POCSO Act in Crime No.96 of 2021, seeks bail.

2. The petitioner is the sole accused in this Case. The case of the prosecution is that on 01.02.2021 the petitioner said to have kidnapped the victim girl. Based on the complaint given by the mother 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 and the petitioner did not kidnap her. He would further submit that due to previous enmity the defacto complainant has lodged a false complaint against the petitioner and the petitioner was arrested on 05.02.2021 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 victim girl for the purpose of marrying her. She would further submit

that the victim girl was rescued and 164 Cr.P.C. statements was recorded from her and the investigation is almost completed. However, 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 it has been further stated that she was in love with the petitioner and on the date of occurrence she was in her friends house.

7. Considering the said facts and circumstances of the case and the fact that the victim girl was rescued and 164 Cr.P.C statements have been recorded from her and she is not supporting the case of the prosecution 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 Judicial Magistrate- Uthukuli 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 JUDICIAL MAGISTRATE,
UTHUKULI.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUPPUR [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
UDHUKULI POLICE STATION,
TIRUPPUR.

5 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

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

सत्यमेव जयते

CRL OP.6039/2021

Date :30/03/2021

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MN-31/03/2021