

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.05.2021

CORAM :

THE HON'BLE MRS. JUSTICE S.KANNAMMAL

Cr1.O.P.No.9190 of 2021

Chinnasamy

... Petitioner

Vs.

State by

... Respondent

The Inspector of Police,
All Women Police Station,
Denkanikottai,
Krishnagiri District.
(Crime No.04 of 2021)

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code, to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No.04 of 2021 pending investigation on the file of the respondent Police.

For petitioner : Mr.M.Jayachandran

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offence under Section 363, 366 of IPC altered to Section 5(1) r/w 6 of Protection of Child from Sexual Offences Act, 2012 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution according to the defacto complainant Sivarani is that her minor daughter aged 16 years has been kidnapped. Initially F.I.R. was registered as 'kidnapped' case and thereafter on enquiry, the case was altered to offences under POCSO Act. Hence, the present complaint.

3. The learned counsel for the petitioner would submit that the victim girl and the petitioner loved each other and the victim girl on her own volition, she eloped from her parental home and stayed with the petitioner. The petitioner tied her thali and they living together. After registration of F.I.R., the petitioner

produced the victim girl in the police station and informed that he will come with his relatives and secure the victim girl. Hence, he seeks anticipatory bail to the petitioner.

4. The learned Government Advocate submitted that the petitioner tied thali to the victim girl, who is aged only 17 years and had sexual intercourse with her. The victim girl was produced before the respondent police and she has been handed over to her parents. 164 statement of victim girl has been recorded and medical test has been conducted to the victim girl. Report awaited. Medical test for the petitioner is yet to be conducted. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Considering the facts and circumstances of the case and the submissions made by the learned counsels, this court is inclined to grant anticipatory bail to the petitioner on condition.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest on his appearance, within a period of fifteen days from the date of receipt of a copy of this order before the learned Judicial Magistrate, Denkanikottai, on condition that the petitioner shall 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 Magistrate concerned and on further conditions that:

(a) the petitioner and 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;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m., until further orders. The petitioner is directed to co-operate with the respondent police for conduct of medical test, if not already conducted.

(c) the petitioner shall not commit any offences of similar nature;

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned 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];

(g) 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/-
13/05/2021

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,
DENKANIKOTTAI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
DENKANIKOTTAI,
KRISHNAGIRI DISTRICT.

+1 CC to M/S.M.JAYACHANDRAN Advocate on payment of necessary charges SR.NO.6217

CRL OP.9190/2021

Date :13/05/2021

TA-17/06/2021

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