

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9362 of 2021

Anand

... Petitioner

Vs.

The State Rep. by,
The Inspector of Police,
Kilpennathur Police Station,
Kilpennathur,
Tiruvannamalai District.
Crime No.129/2021.

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.129 of 2021 pending on the file of the respondent.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr.E.Rajthilak
Government Advocate (Crl.Side)

ORDER

The petitioner who was arrested on 17.04.2021 and remanded to judicial custody for the offences under Sections 363, 366(A), 376 of I.P.C r/w Section 4 and 6 of POCSO Act, 2012 in Crime No.129 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had induced the victim girl and had sexual relationship with her on the pretext that he would marry her. Hence, the law enforcing agency registered a case against the petitioner.

3. The learned counsel for the petitioner submits that the petitioner has not committed any offence as alleged by the prosecution. The victim girl and the petitioner are relatives and the victim girl used to come to the house of the petitioner and stayed with him. He further submits that the petitioner is in jail

from 17.04.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) vehemently opposed the grant of bail by stating that the petitioner had kidnapped the victim girl and had penetrative sexual assault on the pretext that he would marry her. Hence, he prays to dismiss the bail.

5. On perusal of the statement of the victim girl recorded under Section 164 Cr.P.C., the victim girl has stated that she had love affair with the petitioner and stayed with him.

6. Taking into consideration the fact that the victim girl had love affair with the petitioner and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions:-

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) before the Superintendent of the Central Prison, Vellore in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) Within a period of four weeks after the release, the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for like sum to the satisfaction of the Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai.

(c) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four weeks therefrom before the concerned Magistrate for extension of time for executing the bond long with sureties and if any such application is filed, the concerned Session Judge shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated;

(d) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(e) the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

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

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

(h)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]; and;

(i)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

20/05/2021

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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
THIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KILPENNATHUR POLICE STATION,
KILPENNATHUR,
TIRUVANNAMALAI DISTRICT.

CC to M/S.B.JAWAHAR Advocate on payment of necessary charges

CRL OP.9362/2021

Date :20/05/2021

cs 26/05/2021