

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9369 of 2021

Vignesh

... Petitioner

Vs.

The State of Tamil Nadu,
Rep. by the Inspector of Police,
W-15, Royapuram All women Police Station,
Chennai.

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail pending investigation of the case in Crime No.7 of 2021 on the file of the respondent Police, (W-15, Royapuram All Women Police Station).

For Petitioner : Mr.M.Illiyas

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

ORDER

The petitioner who was arrested on 24.04.2021 and remanded to judicial custody for the offences under 5(i) r/w 6 of POCSO Act and Section 9 of Prohibition of Child Marriage Act,2006 in Cr.No.7 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner has taken the victim girl aged about 17 years, performed marriage and had aggravated penetrative sexual assault. Hence, the law enforcing agency registered a case against the petitioner.

3.The learned counsel for the petitioner submits that the victim girl had love affair with the petitioner and with the consent of her, the marriage was performed. He further submits that the petitioner and the victim girl were living together and she was forced to give complaint against the petitioner. The petitioner is in jail from 24.04.2021. 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 married the victim girl aged about 17 years and committed penetrative sexual assault. Hence, he prays to dismiss the bail application.

5.On perusal of the statement of the victim girl recorded under Section 164 Cr.P.C., the victim girl has stated that she is living with the petitioner and she was forced to give complaint against him. Further, with the consent of the victim girl, the marriage was performed.

6.Taking into consideration the fact that with the consent of the victim girl, the marriage was performed and she was forced to give a complaint 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 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 Central Prison, Puzhal 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 learned Judge Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

(c) In case of any difficulty in executing the said bond along with the sureties before the concerned Judge within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four weeks therefrom before the concerned Judge for extension of time for executing the bond long with sureties and if any such application is filed, the concerned 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 JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-15, ROYAPURAM ALL WOMEN POLICE STATION,
CHENNAI.

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

CRL OP.9369/2021

Date :20/05/2021

cs 26/05/2021