

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9437 of 2021

1.Kumaravel
2.Murugan

... Petitioners/Accused

Vs.

State, rep. by
The Inspector of Police,
All Women Police Station,
Cheyyar, Thiruvannamalai District.
(Crime No.3 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioners on bail pending investigation in Crime No.3 of 2021 on the file of the respondent police.

For Petitioners : Mr.V.R.Appaswamee

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

ORDER

The petitioners who were arrested on 23.04.2021 and remanded to judicial custody for the offences under Sections 363 365, 366(A), 109, 120(B), 376(2)(n) of IPC and Sections 4 and 6 of Protection of Child from Sexual Offences Act, 2012 and Section 9 of Prohibition of Child Marriage Prohibition Act 2006 in Crime No.3 of 2021 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the petitioners/A2 & A3 had helped A1 to conduct marriage with the victim girl, who was a minor aged about 17 years and also helped the couple by hiding themselves from her parents. Hence, the law enforcing agency registered a case against the petitioners.

3.The learned counsel for the petitioners submits that with consent of the victim girl, the marriage was performed between A1 and the victim girl on 10.03.2021 and thereafter, they are living together, which was not accepted by the mother of the victim girl. The learned counsel further submits that the petitioners were

arrested and remanded to judicial custody on 23.04.2021. Therefore, he prays to grant bail to the petitioners.

4.The learned Government Advocate (Crl.Side) vehemently opposed the grant of bail by stating that the petitioners kidnapped the victim girl, who was a minor aged about 17 years and performed marriage with A1. If they released on bail, he would tamper the witness, which would affect the investigation. Hence, he prays to dismiss the bail.

5.On perusal of the statement of the victim girl recorded under Section 164 Cr.P.C., it is seen that the victim girl had love affair with A1 and the marriage was performed on 10.03.2021. The victim girl has stated that she is inclined to live with A1.

6.Taking into consideration the fact that the victim girl voluntarily had love affair with A1 and she is willing to live with A1 and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners.

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

(a) the petitioners 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 petitioners are confined and on such execution the petitioners shall be released from prison;

(b) Within a period of four weeks after the release, the petitioners 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 Special Judge 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 Judge within the time stipulated above, the petitioners are 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 petitioners 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 petitioners shall report before the respondent police, daily at 10.30 a.m. until further orders;

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

(g)the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners released on bail by the learned Magistrate/Trial Court themselves 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 abscond, 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 JUDGE FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
THIRUVANNAMALAI

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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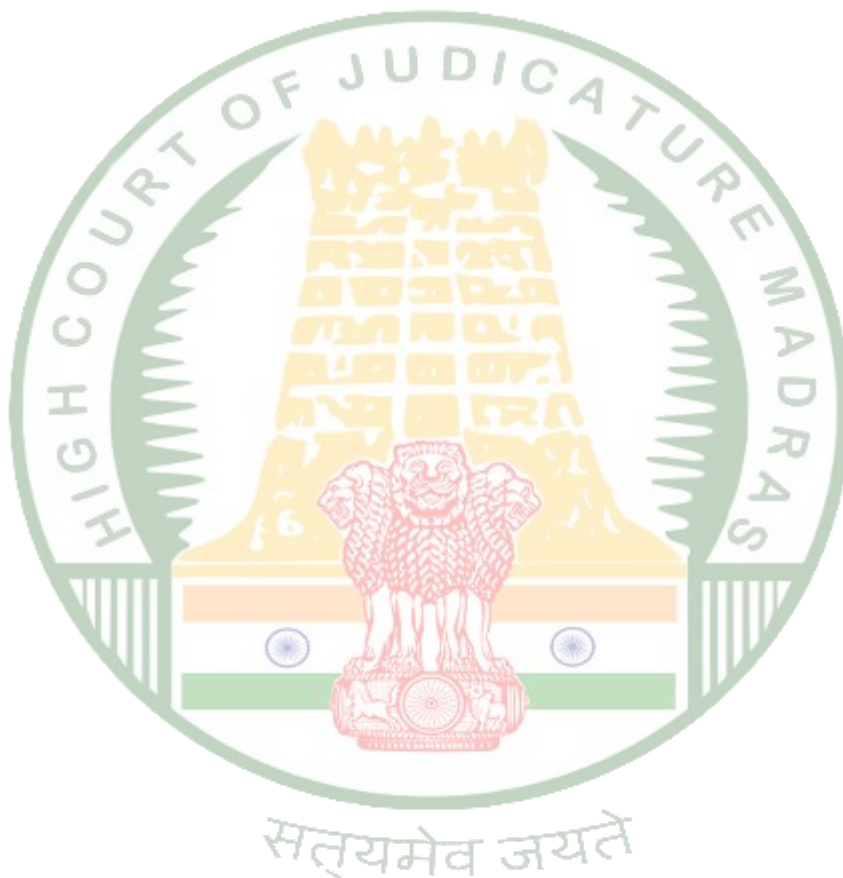
4 THE INSPECTOR OFPOLICE,
ALL WOMEN POLICE STATION,
CHEYYAR, THIRUVANNAMALAI DISTRICT.

CC to M/S.V.R.APPASWAMEE Advocate on payment of necessary
charges Sr.6264

CRL OP.9437/2021

Date :20/05/2021

RVR 02/06/2021



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