

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9433 of 2021

Vetrivel

... Petitioner

Vs.

State of Tamil Nadu,
Rep. by
Inspector of Police,
Perugavazhnthan Police Station,
Tiruvarur District.
(Crime No.224 of 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.224 of 2021 on the file of the Inspector of Police, Perugavazhnthan Police Station, Tiruvarur District.

For Petitioner : Mr.N.Palanivel

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

ORDER

The petitioner who was arrested on 04.05.2021 and remanded to judicial custody for the offences under Section Girl Missing @ 366 (A) of IPC and Section 6 r/w 5(1), 5(j) (ii) of POCSO Act 2012 and Section 9 of Child Marriage Prohibition Act in Cr.No.224 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had kidnapped the minor girl and performed marriage and committed penetrative sexual assault on her who became pregnant due to the sexual assault. Hence, the law enforcing agency registered a case against the petitioner.

3. The learned counsel for the petitioner submits that with consent of the victim girl, the marriage was performed and now the victim girl is pregnant for six months. The petitioner and his parents are ready to accept the marriage. The learned counsel further submits that the petitioner is in jail from 04.05.2021. 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 minor girl and committed the penetrative sexual assault. If he 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 with consent of the victim girl, the marriage was performed and she is now 6 months pregnant.

6. Taking into consideration the fact that the petitioner and parents consented for marriage, further the victim girl had given consent for marriage 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 Superintendent of the Sub Jail, Mannargudi, 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 Session Judge, Fast Track Mahila Court, Tiruvarur.

(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.

सत्यमेव जयते

TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
TIRUVARUR.

2 THE OFFICER INCHARGE
SUB JAIL, MANNARGUDI.

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3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

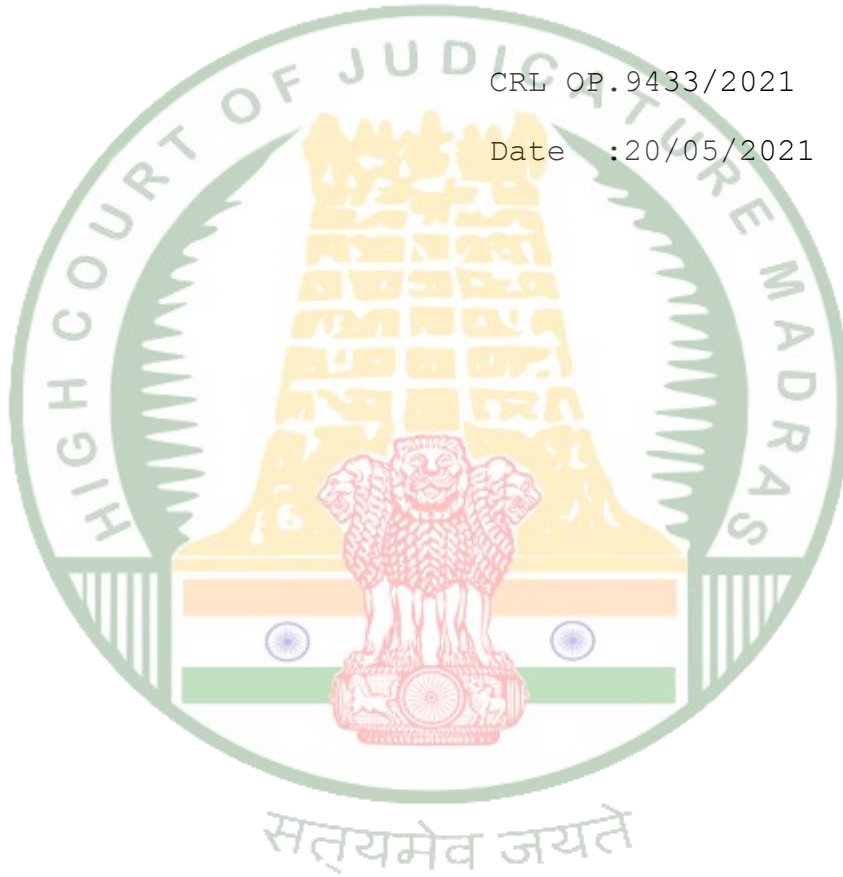
4 THE INSPECTOR OF POLICE,
PERUGAVAZHNTHAN POLICE STATION,
TIRUVARUR DISTRICT.

+1 CC to M/S.N.PALANIVEL Advocate on payment of necessary charges
SR.No.6274

CRL OP.9433/2021

Date :20/05/2021

cs 26/05/2021



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