

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.05.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.9526 of 2021

Logeshwaran

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station
Salem Town
(Crime No.23 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 Cr. No.23 of 2021 pending before the Respondent Police.

For Petitioner : Mr.M.R. Pranklin

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

ORDER

The petitioner who was arrested on 17.03.2021 and remanded to judicial custody for the offences under Sections 363, 366, 342 of IPC and Section 5(1) r/w 6 of POCSO Act and Section 9 of Prohibition of Child Marriage Act 2006, in Cr. No.23 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant has lodged a complaint against the petitioner as if the petitioner kidnapped the victim girl and entered into marriage without her consent for which the complaint was lodged, which has been registered by the law enforcing agency.

3. The learned counsel appearing for the petitioner submits that the petitioner did not commit the offence as alleged by the prosecution. It is further submitted that the petitioner and the victim girl are close relatives and with the consent of the victim girl the marriage was performed and the same was not accepted by the victim girl's family and a false complaint has been given against the petitioner by the defacto complainant. It is further submitted marriage was solemnised on account of the love affair between the petitioner and the victim girl.

4. The learned counsel appearing for the State vehemently opposed the grant of bail, but fairly conceded that statement u/s 164 Cr.P.C. has been recorded from the victim girl.

5. This court has perused the statement of the victim recorded u/s 164 Cr.P.C. which reveals that marriage between the petitioner and the victim girl was performed on 13.03.2021 at Murugan temple with the consent of the victim girl. Considering the aforesaid fact and also taking into consideration the period of incarceration of the petitioner, this Court is inclined to grant bail to the petitioner.

6. 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 Central Jail Salem, 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 POCSO Court, Salem.

(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 along with sureties and if any such application is filed, the concerned Magistrate 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 sureties shall affix their photographs and left thumb impression in the surety bond and the POCSO Court, Salem, 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 POCSO Court, Salem, 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 POCSO Court, Salem, 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 POCSO COURT,
SALEM

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SALEM TOWN.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

WEB COPY

CRL OP.9526/2021

Date :20/05/2021

RVR 02/06/2021