

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.05.2021

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.9535 of 2021

Pragatheesh

... Petitioner

Vs.

State represented by
The Inspector of Police,
Sulur Police Station,
Coimbatore District.
(Crime No.373 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.373 of 2021 pending on the file of respondent police.

For Petitioner : Mr.G.Nareshkumar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl. side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 27.04.2021 for the offences under Sections 366 (A) IPC read with Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006 in Cr. No.373/2021, seeks bail.

2. The case of the prosecution is that the petitioner has abducted the victim girl and sexually assaulted the victim girl. Hence, the complaint.

3. The learned counsel for the petitioner submits the petitioner has already filed a notarised affidavit before the Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore, and he had also filed the copy of the same in the typed set of papers. He further submits that the petitioner is in no way connected with the alleged offence and he has been falsely implicated in this case and the petitioner has been in jail from 27.04.2021 Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) vehemently opposed the grant of bail to the petitioner by stating that investigation is pending and statement of the victim girl under Section 164 Cr.P.C. had not been recorded from the victim girl.

5. Perusal of the notarised affidavit shows that the relatives of the accused had interfered with the due process of investigation. The Court can draw presumption against the accused based on the nature of the contentions in the affidavit. When the accused is inside the prison, his relatives had interfered with the due process of investigation thereby obtaining the notarised affidavit from the parents of the victim girl, defacto complainant. The contents of which are found just opposite or contrary to the facts which resulted in lodging the First Information Report with the Police. This affidavit had been filed along with the bail application seeking bail on the ground that the accused is innocent of the crime, alleged offence under POSCO Act. This filing of the notarised affidavit is found atrocious, highly condemnable and illegal interfering with the process of investigation. The relatives or friends of the accused had the audacity to approach the defacto complainant and obtain such an affidavit before the Notary. The Notary Public also given his seal of approval which is also condemnable and atrocious. It amounts to threatening, coercing the parents of the victim girl, so, that the accused is let off untouched, even though he is alleged to have committed offences attracting the Provisions of POSCO Act. This conduct of the accused and his relatives or friends amounts to interference in the due process of law, in the due process of investigation. Therefore, the accused cannot be treated as innocent of the crime. The accused even though is incarcerated in prison, he has the man power to approach the defacto complainant and obtain the affidavit in which contents of the affidavit are contrary to the contents in the FIR. Therefore, if this petitioner/accused is released on bail, there is every likelihood of interference in the investigation, damaging the investigation and threatening the victim and victim's family. Thereby, interfering in the due process of law which cannot be condoned by the Courts of law. The statement under 164 of Cr.P.C., to be recorded from the victim girl is not yet recorded. Therefore, investigation is still at the initial stage. Therefore, this petition lacks merit and is to be dismissed.

-sd/-

26/05/2021

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,
COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

3 INSPECTOR OF POLICE,
SULUR POLICE STATION,
COIMBATORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.9535/2021

Date :26/05/2021

RVR 03/06/2021



WEB COPY