

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.05.2021

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.9638 of 2021

Muthukrishnan

... Petitioner

Vs.

State represented 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 petitioner on bail pending investigation in Crime No.3 of 2021 on the file of the respondent police.

For Petitioner : Mr.V.Vijayarajan

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

ORDER

The petitioner who was arrested on 24.04.2021 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, seeks bail.

2.The case of the prosecution is that the petitioner kidnapped the victim girl and conducted marriage with her, who was a minor, aged about 17 years.

3.The learned counsel for the petitioner submits that with consent of the victim girl, the marriage was performed between the petitioner 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 petitioner was arrested and remanded to judicial custody on 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 kidnapped the victim girl, who was a minor aged about 17 years and performed marriage with her. 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 the victim girl had love affair with the petitioner and the marriage was performed on 10.03.2021. The victim girl has stated that she is inclined to live with the petitioner.

6.Taking into consideration the fact that the victim girl voluntarily had love affair with the petitioner and she is willing to live with him and also considering the period of incarceration suffered by the petitioner, and also the present COVID-19 pandemic situation, 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 own bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Central Prison, Vellore, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) (i) After the lockdown restrictions are raised and normal time is restored, the restrictions are totally raised, the petitioners shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum amount each to the satisfaction of the The Special Judge for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai. The same shall be executed within a period of one month from the date the lockdown restrictions are raised.

(ii) If for any reason, the petitioner is not able to execute bond within the specified time, the petitioner shall approach this Court and file a petition seeking extension of time for the same.

(iii) While executing the bond, the sureties shall furnish proof of identity and the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate shall obtain a copy of their Aadhar card or Votor ID or Driving license or Bank pass Book to ensure their identity to the satisfaction of the learned Special Judge for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai.

(c) After the lockdown restrictions are raised, normal time is restored, the petitioner shall abide by the following conditions imposed by this Court. He/she shall not interfere, influence or cause hindrance to the pending investigation.

(d) He/she shall not influence, threaten or coerce the witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigation or trial;

(f) 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;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

27/05/2021

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.

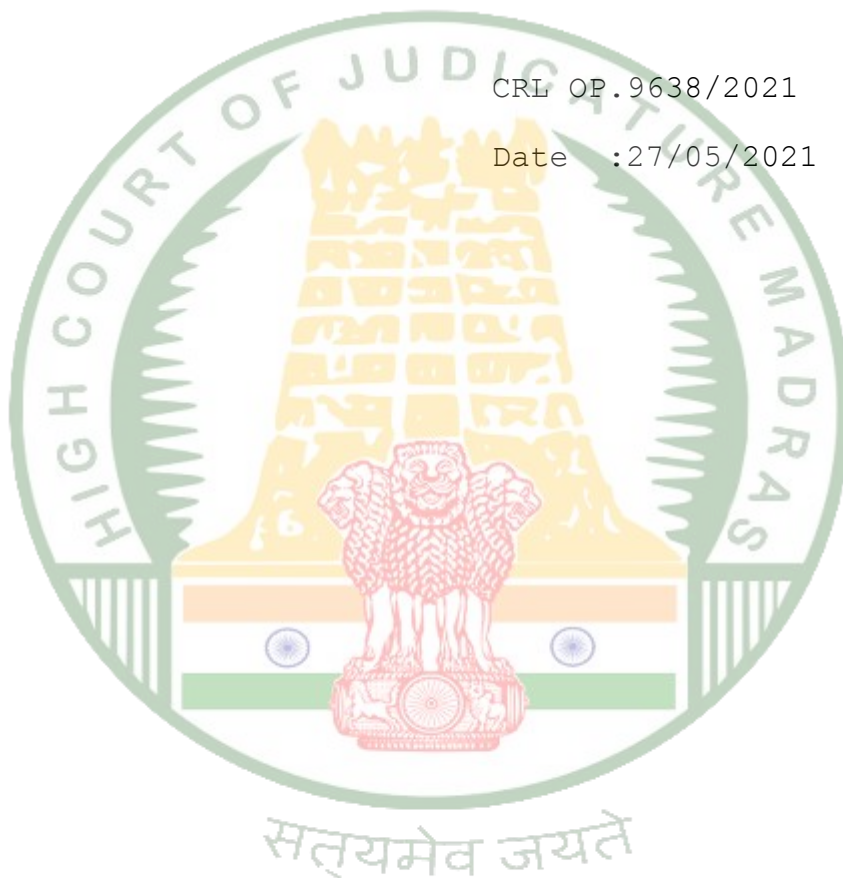
4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHEYYAR, THIRUVANAMALAI DISTRICT.

+1 CC to M/S V.R.APPASWAMEE Advocate on payment of necessary
charges SR.No.6305

CRL OP.9638/2021

Date :27/05/2021

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