

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.9974 of 2021

Pragatheesh

... Petitioner

Versus

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.M.Mohamed Riyaz for
Mr.G.Nareshkumar

For Respondent : Mr.E.Raj Thilak
Counsel for Government of Tamil Nadu
(Cr1 side)

ORDER

The petitioner, who was arrested on 26.04.2021 and remanded to judicial custody for the offences punishable under Sections 366 (A) of IPC r/w Sections 7 & 8 of the Protection of Children from Sexual Offences Act 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006 in Crime No.373 of 2021 on the file of the respondent police, seeks bail.

2.The gist of the case is that the father of the victim girl, has lodged a complaint on 27.04.2021 informing that his minor daughter aged about 17 years was found missing from 23.04.2021 and after making search and discrete enquiry, it came to know that his daughter gone along with the petitioner. Thereafter, the respondent police had secured the petitioner and the victim girl at Palani on 27.04.2021. The victim girl is now with the respondent police.

3. The contention of the petitioner is that the petitioner has been falsely implicated in this case on a mistaken identity of the petitioner and the victim girl. The petitioner resides in the neighbourhood of the victim girl and they were in taking terms which had been misconstrued and projected as if the petitioner had kidnapped the victim girl and married in Palani temple and at no point of time, the petitioner and the victim girl were together. The respondent police have not found the petitioner and the victim

girl together. Further, the parents of the victim girl on coming to know about the true facts, have filed an affidavit before the lower Court as well as before this Court and they also appeared and confirmed the same. Hence, he prays to grant bail to the petitioner.

4. The learned counsel appearing for Government of Tamil Nadu (Crl.Side) would submit that the petitioner and the victim girl had gone to the town of Palani together and she was sent back to her parents by the petitioner and later the petitioner was arrested. There is some relationship between the petitioner and the victim girl. While she was examined and when her statement was recorded under Section 164, she had given a contra statement to the complainant stating that she does not know the petitioner and not aware of him. The defacto complainant and the victim girl are not interested in proceeding with the case and the victim girl is shortly going to attain majority. Now she is studying 12 Standard in Sulur and further she wants to pursue her education.

5. Considering the rival submissions and on perusal of the materials and on the appearance of the victim girl and the defacto complainant, it is found that the victim girl is interested in pursuing her studies and after attaining majority and on completion of education, she would take call on her personal life. She reiterates that she is not having anything to do with the petitioner as projected by the prosecution.

6. Considering the same, and also the period of incarceration suffered by the petitioner and the present COVID-19 pandemic situations this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the Central Prison, Coimbatore, in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the The Special Court for exclusive trial of cases under Pocso Act, Coimbatore within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) On release, the petitioner shall report before the Inspector of Police, Sulur Police Station daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

(e) the petitioner shall not commit any offences of

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

(g) the petitioner shall not tamper with evidence or witness 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]**.

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

(ii) the petitioner shall not visit or go near the home of the victim, till the completion of Trial.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

08/06/2021

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 CC to M/S.G.NARESHKUMAR Advocate on payment of necessary charges SR.NO.6411

CRL OP.9974/2021

Date :08/06/2021