

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M. NIRMAL KUMAR

Cr1.O.P.No.9961 of 2020

Praveen @ Praveen Kumar

... Petitioner

Vs.

State represented by
The Inspector of Police,
Anakkavoor Police Station,
Tiruvannamalai District
(Crime No.84 of 2021)

... Respondent

Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioner on bail in Crime No.306 of 2020 on the file of the respondent police.

For Petitioner : Mr. S.Sarath Chandran

For Respondent : Mr.E.Raj Thilak

Learned Counsel for Government
(Criminal Side)

O R D E R

The petitioner was arrested and remanded to judicial custody on 20.03.2021 for the offences under Section 366(A) of IPC, Section 4 ad 8 of POCSO Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, in Crime No.84 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that during the month of March 2021, the petitioner kidnapped the victim girl aged about 17 years and he attempted to marry the minor girl and also forcibly had sexual intercourse with the victim girl. Hence, an FIR was registered against the petitioner, based on the complaint by the father of the victim girl.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl were in love with each other and they both are close relatives. The learned counsel further submitted that the victim girl had voluntarily come along with the petitioner and therefore, the petitioner had arranged for a marriage. The petitioner had remanded to judicial custody on 20.03.2021 and he has already suffered incarceration for more than 77 days and hence, prays for grant of bail.

4. The learned counsel for Government (Criminal Side) on instructions would submit that the victim girl was 3 ½ months pregnant and the pregnancy was aborted by the parents of the victim girl. The learned counsel further submitted that 164 statement has been recorded from the victim girl and she has spoken about her affair with A1 and also the physical intercourse of A1 with the victim girl and hence, he opposed to grant bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and also taking note of the fact that the petitioner was in judicial custody from 20.03.2021 and further taking note of the fact that due to the tender age and not knowing the consequences of their act, both the victim girl and the petitioner had eloped, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner is ordered to be released on bail on executing his 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 has been confined;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lock down 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 releasing, the petitioner shall report before the respondent police, as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature;

(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 Judicial 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.

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

-sd/-
07/06/2021

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,
THIRUVANNAMALAI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANAKKAVOOR POLICE STATION,
TIRUVANNAMALAI DISTRICT.

CC to M/S.S.SARATH CHANDRAN Advocate on payment of necessary charges

CRL OP.9961/2021

Date :07/06/2021

MK:08/06/2021