

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2021

CORAM:

THE HON'BLE MR. JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.9976 of 2021

Manikandan

... Petitioner

Versus

State represented by:

The Sub-Inspector of Police,
Cheyyar Police Station,
Thiruvannamalai District,
(Crime No.210 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.210 of 2021 pending on the file of Cheyyar Police Station, Thiruvannamalai District.

For Petitioner : Mr.V.R.Appaswamee

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

ORDER

The petitioner, who was arrested on 04.05.2021 and remanded to judicial custody for the offences punishable under Sections 363, 366(A), 376 (2) (n) of IPC and Sections 4 & 6 of POSCO Act r/w Sections 4, 6 & 9 of Child Marriage Act in Crime No.210 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl, aged about 17 years was found missing from 27.04.2021, hence the de-facto complainant who is the father of the victim girl lodged a complaint stating that the petitioner had kidnapped his daughter for the purpose of marrying her.

3. The learned counsel for the petitioner submitted that the petitioner has been in judicial custody from 04.05.2021. He further submitted the petitioner is ready and willing to marry the victim girl once the victim girl attains the age of 18. Now the petitioner is aged about 17 years and 10 months. Therefore, he prays to grant bail to the petitioner.

4. The learned counsel appearing for Government of Tamil Nadu (Crl. Side) submitted that the investigation is yet to be completed and the 164 statement of the victim girl has been recorded by the learned Judicial Magistrate. Therefore, he vehemently opposed for grant of bail to the petitioner.

5. Considering the rival submissions and on perusal of the materials, it is seen that the victim girl in her 164 statement had clearly stated that she and the petitioner had fallen in love with each other. The victim girl is a under graduate and she is pursuing her graduation. She has been continuing her relationship with the petitioner. Further, the victim girl has been secured and she had appeared before the learned Judicial Magistrate and confirmed her relationship and refused to go along with her parents and willing to marry the petitioner herein, since she is short of two months for attaining the majority, she has been now referred to Government Home at Thiruvannamalai. After attaining the age of majority, the relationship between the petitioner as well the victim girl cannot be denied and she is determined in joining the petitioner as and when she attains the age of 18.

6. In view of the above and also considering the period of incarceration suffered by the petitioner and the present COVID-19 pandemic situation, 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, Vellore, 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 learned Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai District, 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 Sub-Inspector of Police, Cheyyar Police Station, Thiruvannamalai District, 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 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 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.

6. 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,
THIRUVANNAMALAI DISTRICT.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

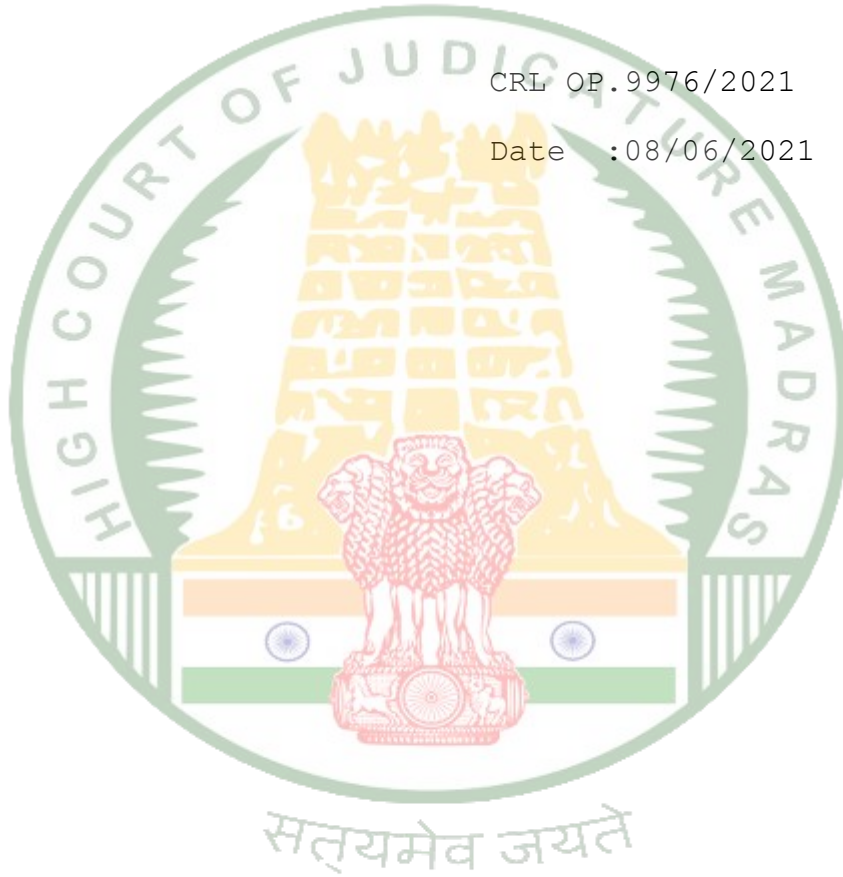
4 THE SUB INSPECTOR OF POLICE,
CHEYYAR POLICE STATION,
THIRUVANNAMALAI DISTRICT.

+1 CC to M/S.V.R.APPASWAMEE Advocate on payment of necessary
charges SR.No.6404

CRL OP.9976/2021

Date :08/06/2021

cs 09/06/2021



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