

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.10352 of 2021

Padaiyappan

... Petitioner

Vs.

The State Represent by
The Inspector of Police,
Kinathukadavu Police Station,
Coimbatore District.
Crime No.105 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 connection with the case in Cr.No.105 of 2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.M.N.Balakrishnan

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

ORDER

The petitioner, who was arrested on 26.04.2021 and remanded to judicial custody for the offences under Sections 5(1), 6 of POCSO and Section 9 of Protection of Child Marriage Act, 2006, in Cr.No.105 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl is a minor and now she is aged about 16 years and 11 months. The petitioner and the victim girl are relatives and their marriage was solemnized on 31.03.2021. Thereafter, there was no compatibility between them, due to which there was a quarrel on several occasions in between them. Thereby, the victim girl left the company of the petitioner, started living in her parental home. Hence she lodged a complaint before the respondent Police.

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case and he further submits that the marriage between them was an arranged one and it was solemnized in front of relatives and parents of the victim girl and immediately,

one week after marriage, there was no compatibility between the petitioner and the defacto complainant and thereby she left the matrimonial home and therefore, he has not committed any offence as alleged by the prosecution. Hence prays for grant of bail.

4. The learned Government Advocate (Crl.Side) submitted that there was a matrimonial dispute and there is no previous case against the petitioner and the investigation is almost completed.

5. This Court is of the view that on perusal of the 164 statement, there is no serious allegation made against the petitioner and further 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 subject to the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent of the Central Prison, Coimbatore, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) Within a period of four weeks after the release, the petitioner shall execute a bond for Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore;.

(c) In case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four week therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated.

(d) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(e) the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) the petitioner shall not abscond 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]; and;

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

-sd/-

23/06/2021

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 JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KINATHUKADAVU POLICE STATION,
COIMBATORE DISTRICT.

CC to M/S M.N.BALAKRISHNAN Advocate on payment of necessary charges Sr.6740

WEB COPY

CRL OP.10352/2021

Date :23/06/2021

RVR 24/06/2021