

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.06.2021

CORAM :

THE HON'BLE MR. JUSTICE M.DHANDAPANI

Crl.O.P.No.11075 of 2021

Balaji

... petitioner /Accused No.2

Vs.

The State Rep.by

The Inspector of Police,
Thandarampattu Police Station,
Thandarampattu,
Tiruvannamalai District.
(Crime No.351 of 2021)

... Respondent/Complainant

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge Bail to the petitioner in the event of his arrest in Crime No.351 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences under Sections 366 (A) of IPC @ Section 4, 5(I), 6 of POCSO Act 2012, in Crime No.351 of 2021, seeks anticipatory bail.

2. There are totally two accused, the petitioner is ranked as A2. The prosecution case is that the victim girl aged about 17 years, who is the daughter of the defacto complainant was kidnapped by one Thirumoorthy/A1, for which the petitioner/A2 had helped A1. Subsequently, A1 had intercourse with the victim girl. Based on the complaint given by the father of the victim girl, a crime has been registered.

3. The learned counsel appearing for the petitioner would submit that the main accused, i.e. A1 in this case was having love affair with the minor girl and both of them left their house. The only allegation against the petitioner is that he helped to get marriage

with A1 and minor girl. He would submit that A1/Thirumoorthy was arrested, remanded to judicial custody on 08.06.2021. Hence, he prays for anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that A1 kidnapped the victim girl and had intercourse with her. The petitioner only has helped for their love. He would further submit that statement of the victim girl under Section 164 Cr.P.C was recorded and no allegation was made in the 164 statement against the petitioner.

5. Taking into consideration the facts and submissions made by the learned counsel of this case and also considering the fact that the main accused is A1 and the petitioner helped their love without knowing that the victim girl is a minor, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy is made ready, before the learned Special Court for Exclusive Trial of cases Under POCSO Act, Tiruvannamalai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter as and when required for interrogation.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

29/06/2021

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,
TIRUVANNAMALAI

2 INSPECTOR OF POLICE,
THANDARAMPATTU POLICE STATION,
THANDARAMPATTU, TIRUVANNAMALAI DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S B.JAWAHAR Advocate on payment of necessary charges
SR.6893

CRL OP.11075/2021

Date :29/06/2021

RVR 08/07/2021

WEB COPY