

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.11578 of 2021

V.Selvaganapathi

... Petitioner

Vs.

The State Represent by
The Inspector of Police,
All Women Police Station,
Thiruvarur.
Cr.No.7 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.7 of 2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.K.Thangamani

For Respondent : Mr.A.Gopinath
Government Advocate (Cr1 side)

ORDER

The petitioner, who was arrested on 11.05.2021 and remanded to judicial custody for the offences under Section 6 read with 5(1) of POCSO Act 2012, Section 9 and 10 of Prohibition of Child Marriage Act in Cr.No.7 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the grandmother of the victim girl lodged a complaint before the respondent police stating that the petitioner got married with the victim, who is aged about 13 years and committed sexual assault on her.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he does not know that the victim girl is aged about 13 years. After marriage, he came to know that the victim is a child and not completed 18 years. Hence, he prays for grant of bail.

4. The learned Government Advocate (Cr1.Side) submitted that this Court, on an earlier occasion, directed to ascertain whether the victim is willing to live with the petitioner or willing to study. The victim girl, who is a minor, is ready and willing to continue her studies.

5. This Court is of the view that on perusal of the 164 statement, the victim girl stated that she is willing to continue her studies and there is no serious allegation against the petitioner. 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 not disturb/force the victim girl in any way;

(b) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Jailer, Sub Jail, Nannilam, Thiruvarur District, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(c) 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 Additional Sessions Judge, Fast Track Mahila Court, Thiruvarur;.

(d) 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.

(e) 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;

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

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

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

(i) 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;

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

-sd/-
09/07/2021

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 ADDITIONAL SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
THIRUVARUR.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, THIRUVARUR,
THIRUVARUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE OFFICER INCHARGE,
SUB JAIL, NANNILAM, THIRUVARUR DISTRICT

+1 CC to M/S.K.THANGAMANI Advocate on payment of necessary charges
SR.NO. 7240

सत्यमेव जयते

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CRL OP.11578/2021
Date :09/07/2021

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