

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.11980 of 2021

S. Srinivasan

... Petitioner

Vs.

State Rep by,
The Inspector of Police,
All Women Police Station,
Salem Town
(Crime No.35 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 Crime No.35 of 2021 on the file of respondent police.

For Petitioner : Mr.R. Ezhilarasan

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 363, 366, 343 of I.P.C and Section 4 read with Section 3 of POCSO Act 2012 and Section 9 of Prohibition of Child Marriage Act 2006 in Crime No.35 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner fell in love with the victim girl and on 21.04.2021 the petitioner eloped with the victim girl and married her. Thereafter the petitioner committed sexual assault on the victim girl. Based on the complaint given by the relative of the victim girl the case came to be registered.

3. The learned counsel appearing for the petitioner submits that the petitioner married the victim girl and now they are living happily. He further submits that the victim girl on her own volition came out of her house and married the petitioner. Hence he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the victim girl was secured and almost investigation was completed. He further submits that 164 statements was also recorded from the victim girl. Hence, he vehemently opposed for grant of bail to the petitioner.

5. I have heard the rival submissions advanced by both the parties and perused the 164 statements recorded from the victim girl.

6. On perusal of 164 statements it is clear that the victim girl fell in love with the petitioner and she on her own volition came out of her house and married the petitioner and she has not made any allegation against the petitioner.

7. Considering the period of incarceration suffered by the petitioner and there is no specific overt act against 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 Central Prison, Salem 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 Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Salem.

(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/-

13/07/2021

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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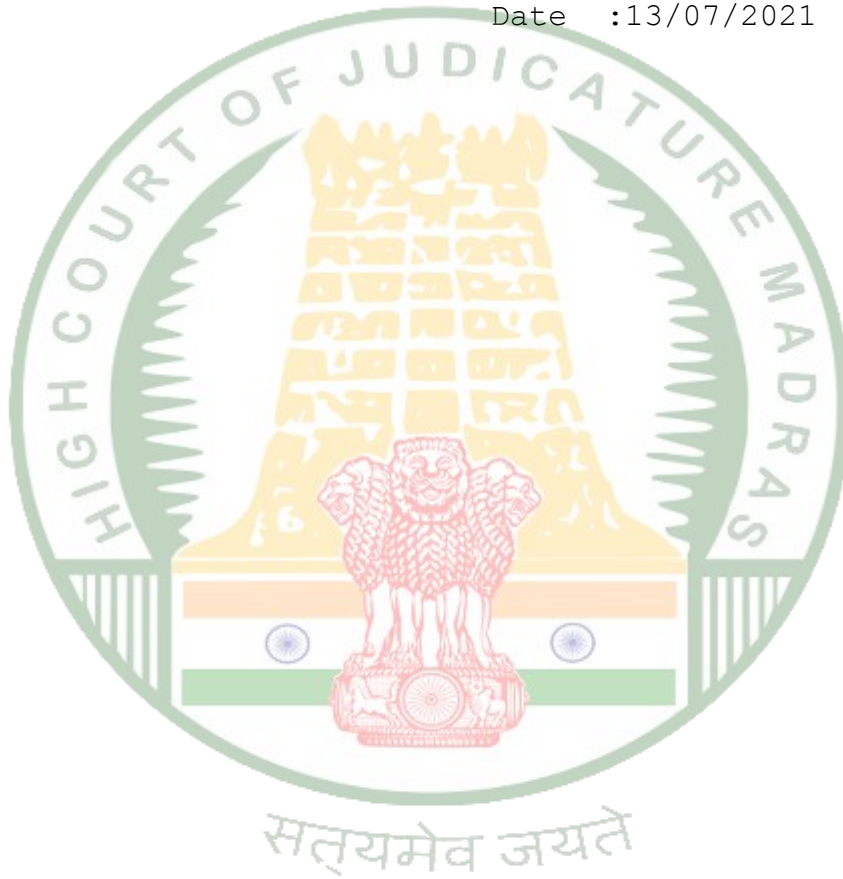
4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SALEM TOWN.

CC to Mr.R. Ezhilarasan Advocate on payment of necessary charges

CRL OP.11980/2021

Date :13/07/2021

cs 14/07/2021



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