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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.12321 of 2021

Thirumoorthy ... Petitioner

Vs.

The State Represent by
The Inspector of Police,
Thandarampattu Police Station,
Thandarampattu, Thiruvannamalai District.
Crime No.351 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.351 of 2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.B.Jawahar

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

ORDER

The petitioner, who was arrested on 18.06.2021 and remanded to judicial custody for the offences under Sections 366(A) of IPC @ Section 4,5(l), 6 of POCSO Act, 2012 in Cr.No.351 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused person kidnapped the victim girl, who is a minor. Hence, the law enforcing agency registered a case against the petitioner along with other accused person based on the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is innocent and he did not commit any offence as alleged by the prosecution and the petitioner and the victim girl were loved each other and she went with the petitioner on her own and he is in judicial custody from 18.06.2021. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl.Side) submitted that the victim girl has been produced before the learned District Munsif cum Judicial Magistrate, Thandarampattu and recorded the 164 statement. In which, she stated that the victim girl and A1 loved each other for the

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past two year and she went with A1 on her own volition and she has not stated any serious allegation against the petitioner and other accused person. Hence, he has not seriously objected to the grant of bail.

5. This Court is of the view that on perusal of the 164 statement, it was stated that the victim girl went with A1 on her own volition and there is no serious allegation made against this 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, Central Prison, Thiruvannamalai, 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. Thiruvannamalai;.

(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;

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(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/-
20/07/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT FOR
EXCLUSIVE TRIALOF CASES UNDER POCSO ACT,
THIRUVANNAMALAI

2 THE OFFICER INCHARGE,
THIRUVANNAMALAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

5 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUVANNAMALAI

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

CRL OP.12321/2021

Date :20/07/2021

RVR 22/07/2021

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