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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.12339 of 2021

Kathirvel

.. Petitioner

Vs.

The State Rep. By
Inspector of Police,
Mettupalayam Police Station,
Coimbatore District.
Cr.No.789 of 2021.

.. Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C prayed to enlarge the petitioner on bail concerned in Crime No.789 of 2021 on the file of the respondent police.

For Petitioners : Mr.C.Ramkumar

For Respondent : Mr.A.Gopinath
Government Advocate (Criminal Side)

ORDER

The petitioner who was arrested on 21.06.2021 and remanded to judicial custody for the offences under Sections Girl Missing @ under Section 5(1) and 6 of POCSO Act, in Crime No.789 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner and the victim girl and the petitioner fell in love with each other. Subsequently, the petitioner eloped with the minor girl and sexually assaulted her. Based on the complaint given by the mother of the victim girl, the law enforcing agency registered a case against the petitioner.

3.The learned counsel appearing for the petitioner submitted that the petitioner and the victim girl fell in love each other. He further submits that the victim girl on her own volition came out of the house to marry the petitioner. Apart from that he has not committed any offence as alleged by the prosecution and he has been falsely implicated in the case and he is in judicial custody from 21.06.2021. Hence he prays for grant of bail to the petitioner.



4.The learned Government Advocate submitted that statement of the victim girl u/s 164 Cr.P.C. has been recorded, in which, the victim has admitted that on her own volition she left her parental home and went with the petitioner.

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5.On perusal of the statements recorded under Section under 164 of Cr.P.C, it is made clear by the victim girl that she on her own volition came out her house to marry the petitioner. **It is also observed that the elders of the family advised the victim girl not to continue the relationship with the petitioner even then the victim girl agreed for marriage with the petitioner.**

6. Considering the facts and circumstances of the case and as per the statement of the victim girl u/s 164 Cr.P.C., the minor girl had admitted that she had, on her own, left her home and eloped with the petitioner and also considering the fact that the petitioner having been under incarceration from 21.06.2021, this Court is inclined to grant bail to the petitioner with following conditions:

7. Accordingly, the petitioner is ordered to be released on bail on his executing 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 **Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore** and on further condition that:

(a)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. until further orders;

(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]**; and;



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

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-sd/-
02/08/2021

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 TRIAL OF
CASES UNDER POCSO ACT, COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
METTUPALAYAM POLICE STATION,
COIMBATORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 CC to M/S C.RAMKUMAR Advocate on payment of necessary
charges SR.NO.8038

CRL OP.12339/2021

Date :02/08/2021

TA-03/08/2021