



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.13243 of 2021

Kaveri

... Petitioner

Vs.

State Rep by  
The Inspector of Police,  
Karimangalam Police Station,  
Chennai.  
(Crime No.311 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 Crime No.311 of 2021 on the file of the respondent police.

For Petitioner : Mr.V.Elangovan

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

ORDER

The petitioner who was arrested on 05.06.2021 and remanded to judicial custody for the offences under Sections 9 and 11 of Child Marriage Restraint Act, 2006 altered into Sec.9 and 11 of Child Marriage Restraint Act, 2006 and Section 5(1) r/w 6 of POCSO Act 2012. in Crime No.311 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the Child Welfare Committee lodged a complaint stating that the victim, who is a minor, got married with the petitioner on compulsion of her family on 29.04.2021 and the petitioner made sexual assault on her. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the alleged offences and he has been falsely implicated in this case. He further submits that co-accused had already been granted bail by this Court in Crl.O.P.No.12099 of 2021 dated 16.07.2021. Hence he prays for grant of bail.



4. The learned Government Advocate (Crl.Side) submitted that the defacto complainant has been produced before the learned District Munsif cum Judicial Magistrate, Penngaram. The statement of 164(5) Cr.P.C has been recorded, in which, she has not stated any serious allegation against the petitioner. On her own volition, she got married with the petitioner. Hence, the learned Government Advocate has no serious objection to grant bail to the petitioner.

5. This Court is of the view that on perusal of the 164 statement, there is no serious allegation made against the petitioner, on her own volition, she got married with the petitioner and further considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

6. 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 learned Judicial Magistrate, Palacode, 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.

-sd/-

30/07/2021

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 JUDICIAL MAGISTRATE,  
PALACODE

2 THE CHIEF JUDICIAL MAGISTRATE  
DHARMAPURI (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
KARIMANGALAM POLICE STATION,  
CHENNAI.

5 THE OFFICER INCHARGE,  
SUB JAIL, DHARMAPURI

6 THE DISTRICT MUNSIF CUM  
JUDICIAL MAGISTRATE, PENNGARAM

CC to M/S.V.ELANGO VAN Advocate on payment of necessary charges  
Sr.7962

CRL OP.13243/2021

Date :30/07/2021

RVR 02/08/2021