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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.15449 of 2021

Mathankumar

... Petitioner

Vs.

State Rep by
Inspector of Police,
AWPS Salem Town Police Station,
Salem District.
(Crime No.51 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to release the petitioner on bail pending investigation in Crime No.51 of 2021 on the file of the respondent police.

For Petitioner : Mr.S. Satheeshkumar

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

ORDER

The petitioner who was arrested on 15.07.2021 and remanded to judicial custody for the offences under Sections 366(A) and 342 of I.P.C and Section 4 r/w 3 of POCSO Act 2012, in Crime No.51 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that there was love affair between the petitioner and the victim girl. Thereafter ,the victim girl eloped with the petitioner and the petitioner promised that he will marry the victim girl and committed 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 the mother of the petitioner has filed an affidavit before this Court and the relevant portion in para No.4 extracted hereunder:



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"I submit that the petitioner and the defacto complainant's daughter namely Amrin Nisha are having love and affair each other. Despite the continuous threat by the parents of the victim, she refused to along with her parents. Further, the victim has sent to home due to the reason that she is minor girl. The victim has strongly stood on her stand that she will live only with the petitioner. Ourson (petitioner herein) will ready to marry with victim girl after granting this bail application and I promise to say that will perform the marriage immediately"

He further submits that the petitioner has been jail from 15.07.2021 Hence he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that the statement of 164 Cr.P.C has been recorded , in which, she has not stated any serious allegation against the petitioner. He further submits that the victim girl has been secured. 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 statements, there is no serious allegation made against the petitioner, on her own volition she went along with the petitioner and the victim girl has been secured and considering the affidavit filed the mother of the petitioner and also 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 Additional Mahila Court, Salem 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/-
08/09/2021

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 MAHILA COURT
SALEM.

2 THE INSPECTOR OF POLICE,
AWPS SALEM TOWN POLICE STATION,
SALEM DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. S.SATHEESHKUMAR Advocate on payment of necessary charges SR.NO. 9727

CRL OP.15449/2021

Date :08/09/2021

JPA 09/09/2021