

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.18663 of 2020

Muthamilselvan

... Petitioner

Vs.

The State, Rep by Inspector of Police,
Erumapatty Police Station
Namakkal District.
(Crime No. 46 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on anticipatory bail in the event of his arrest in Crime No. 46 of 2020 on the file of Inspector of Police, Erumapatty Police Station, Namakkal District.

For Petitioner : Mr.D.J.Venkatesan

For Respondent : Mr.S.Karthikeyan
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 366 of IPC r/w Section 6, 5 (1) of POCSO Act and Section 9 of the Prohibition of Child Marriage Act, in Crime No.46 of 2020, seeks anticipatory bail.

2. The case of the prosecution is that the petitioner is ranked as A8. A1, by name Manikandan, a married person and he was living with his wife. The victim girl, aged about 17 years and the said Manikandan loved each other, later A1 kidnapped her and married the victim girl. This petitioner being a friend of A1, helped him. Hence, the present complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is only a friend of A1 and that he is no way connected with the said offence. It is further submitted that the petitioner is willing to comply with the conditions as this Court may impose. Hence, he seeks for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would vehemently opposed to enlarge the petitioner and submitted that based on the complaint lodged by the defacto complainant, a case was originally registered for 'girl missing' and subsequently it was altered to Section 366 of IPC r/w.6, 5(1) r/w.17 of POCSO Act, Section 9 of the Prohibition of Child Marriage Act. It is also further submitted that A1 was arrested.

5. Taking into consideration of the facts and circumstances of the case, petitioner only a friend of A1 and all the allegations are against A1, this Court is inclined to grant bail to the petitioner subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judicial Magistrate-II, Namakkal, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[b] 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.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m until further orders.

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] 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].

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

With the above directions, this Criminal Original Petition is ordered.

-sd/-
06/01/2021

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 NO.II,
NAMAKKAL.

2 THE CHIEF JUDICIAL MAGISTRATE
NAMAKKAL [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ERUMAPATTY POLICE STATION,
NAMAKKAL DISTRICT.

+1CC to M/S.D.J.VENKATESAN Advocate on payment of necessary charges SR NO.278

CRL OP.18663/2020

Date :06/01/2021

MK:20/01/2021

WEB COPY