

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Crl.O.P.No.19111 of 2020

Amudha

... Petitioner

Vs.

The State Rep. by
The Inspector of Police
Erumpatti 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 bail in Crime No.46 of 2020 on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

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

O R D E R

(The case has been heard through video conference)

The petitioner/A6, who apprehends arrest at the hands of the respondent police for the offences punishable under Section 366 of IPC r/w 6, 5 (1), r/w 17 of POCSO Act, Sec.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, A1, by name Manikandan is a married person and he was living with his wife. The victim girl, who is aged about 17 years and the said Manikandan fell in love with her, subsequently, A1 married the minor girl. Hence, the present complaint.

3. The learned counsel appearing for the petitioner would submit that based on the complaint lodged by the defacto complainant, the petitioner is arrayed as A6, who was the co-worker of A1, only allegation against him is that he has given shelter to A1. It is also submitted that only on the confession statement of A1, a false case has been foisted against the petitioner. Hence, he seeks for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would vehemently oppose to enlarge the petitioner on bail on the ground that based on the complaint lodged by the defacto complainant, a case was registered as 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 the facts and circumstances of the case and also the petitioner is only a friend of A1, and he has only given shelter to him, and no other said over allegation levelled against the petitioner, 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 her appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the Fast Track Mahila Court, 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/-
05/01/2021

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 FAST TRACK MAHILA COURT,
NAMAKKAL.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ERUMAPATTI POLICE STATION,
NAMAKKAL DISTRICT.

+1CC to M/S W.CAMYLES GANDHI Advocate on payment of
necessary charges SR NO.74

CRL OP.19111/2020

Date :05/01/2021

MK:19/01/2021

सत्यमेव जयते

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