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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.18943 of 2021

Karuppanan

... Petitioner

Vs.

State rep by its
The Inspector of Police,
All Women Police Station,
Sankari,
Salem District.
(Crime No.13 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail pending investigation in Crime No.13 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Gnanasekar

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

ORDER

The petitioner who was arrested on 23.08.2021 and remanded to judicial custody for the offences under Sections 363, 366 of IPC & 5(1) r/w 6 of POSCO Act 2012 and 9, 10 Prohibition of Child Marriage Act 2006, in Crime No.13 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner and elders have performed the marriage between the petitioner and the minor victim girl and thereafter, the petitioner had sexual intercourse with 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 petitioner has been jail from 23.08.2021. He further submitted that the petitioner is the husband of the defacto complainant and there is no serious allegation made against the petitioner. 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 statement, the victim girl, on her own volition, she went along with the petitioner and there is no serious allegation against the petitioner and the victim girl has been secured and the mother of the victim girl has also received a sum of Rs.5,00,000/- from the petitioner as marriage expenses and also 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 Special Court for Exclusive Trial of Cases under POCSO Act, 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/-
21/10/2021

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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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
SALEM.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SANKARI, SALEM DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

+1 CC to M/S. M.GNANASEKAR Advocate on payment of necessary
charges SR.NO.11525

CRL OP.18943/2021

Date :21/10/2021

INBA-21/10/2021