



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.20339 of 2021

Sellakkannu

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Pennagaram, Dharmapuri,
(Crime No.2 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.2 of 2021 pending on the file of the Inspector of Police, All Women Police Station, Pennagaram.

For Petitioner : Mr.P.G.Thiyagu

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

ORDER

The petitioner who was arrested on 01.09.2021 and remanded to judicial custody for the offences under Sections 363, 366 IPC and Sec5(i)(j)(ii) r/w Section 6(1) of POCSO Act 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.2 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner/accused kidnapped the defacto complainant's daughter aged about 17 years by deceit that he will marry 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 the victim and the accused were lovers. Since the parents of the victim girl were trying to get her married to another person, the girl came out of the house on her own volition and thereafter, the petitioner married the victim girl and they lived together and she become pregnant. An undertaking affidavit has also been filed by the petitioner in which he has stated that he is leading a happy marital life with his wife and the child to be born. He further submits that an undertaking affidavit also been filed by



the the defacto complainant in which she has stated the parents of the victim girl had accepted the marriage of the accused and their daughter. He further submits that the petitioner has been in jail from 01.09.2021 and, hence, he prays for grant of bail to the petitioner. It is further submitted that the petitioner's father passed away yesterday, i.e., 31.10.2021 and the petitioner's presence as the son is required for cremation, which is to take place at 2.00 p.m. today and, therefore, prays that this Court may pass appropriate orders enlarging the petitioner on bail with condition that after cremation, he will execute the sureties.

4. The learned Government Advocate (Crl.Side) submits that the statement of the minor victim girl under Section 164 Cr.P.C has been recorded , in which, the victim girl stated that on her own volition, she went along with the petitioner and married him and sexual relationship was had with the consent of the victim girl and she became pregnant.

5. A perusal of the statement recorded under Section 164 of Cr.P.C reveals that, there is no serious allegation made against the petitioner and that the victim girl has stated that on her own volition, she went along with the petitioner and married him and with her consent she had sexual relationship and she became pregnant. Taking into consideration the fact that the petitioner and victim girl are lovers and the victim girl on her own volition went along with the petitioner and married him and also the undertaking affidavit filed by the petitioner in which he has stated that he will take proper and good care of his wife and his child and further considering the period of incarceration suffered by the petitioner and also taking note of the fact that the petitioner's father has passed away yesterday, which has been admitted by the learned Government Advocate, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is ordered to be released on bail executing a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only). The Jail Authorities shall release the petitioner on bail and depute one Police Personal along with him for performing the last rites . The two sureties shall each execute a bond for Rs.10,000/- to the satisfaction of the learned **Fast Track Mahila Court, Dharmapuri on or before 05.11.2021 and on further condition** and on further condition that:

(a) On execution of personal bond for Rs.10,000/-, the prison authorities shall forthwith release the petitioner;

(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;

(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/-

01/11/2021

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
DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PENNAGARAM, DHARMAPURI.

4 THE OFFICER INCHARGE
SUB JAIL, DHARMAPRURI.

+1 CC to M/S. P.G.THIYAGU Advocate on payment of necessary charges SR.NO.12251

CRL OP.20339/2021

Date :01/11/2021

TA-01/11/2021