



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.19184 of 2021

Balasubramani

... Petitioner

Vs.

State, represented by
The Inspector of Police,
Perumanallur Police Station,
Tiruppur.
(Crime No.616 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 Spl.SC.No.54 of 2021 pending trial on the file of the Magalir Needhimandram, Tiruppur in Crime No.616 of 2021 on the file of the respondent police.

For Petitioner : Mr.J.Franklin

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

ORDER

The petitioner who was arrested on 07.07.2021 and remanded to judicial custody for the offences under Sections 366 IPC and 5(1), r/w 6 POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.616 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that initially FIR was registered under Girl Missing case. Later on investigation, the respondent police came to know that the petitioner has eloped with the victim girl and married her and thereafter the petitioner has 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. Infact, the petitioner and the defacto complainant are lovers and on 25.06.2021, the petitioner eloped with the victim girl and performed marriage. He further submits that the victim girl is aged about 13 years and the petitioner is ready to marry the victim girl, after



completion of 18 years and he has already filed an affidavit to that effect. He further submits that the petitioner has been jail from 07.07.2021. Hence he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) submits that the statement of 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 her and had a sexual relationship with 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, there is no serious allegation made against the petitioner and on her own volition, she went along with the petitioner and the petitioner is ready to marry the victim girl after the completion of 18 years and he also filed an affidavit to that effect and 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 learned *Judicial Magistrate, Magalir Neethimandram (Fast Track Mahila Court) Tiruppur*, 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.

WEB COPY

-sd/-
26/10/2021

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,
MAGALIR NEETHIMANDRAM (FAST TRACK MAHILA COURT),
TIRUPPUR.

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUPPUR [FOR INFORMATION]

3 THE INSPECTOR OF POLICE,
PERUMANALLUR POLICE STATION,
TIRUPPUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S J.FRANKLIN Advocate on payment of necessary charges

CRL OP.19184/2021

Date :26/10/2021

CSK 27/10/2021