



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.19712 of 2021

Ayyanar (Prakash)

... Petitioner

Vs.

State by Inspector of Police,
All Women Police Station,
Tiruvannamalai.
(Crime No.25 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.25 of 2021 on the file of the respondent police.

For Petitioner : Mr.A.S.Aswin Prasanna

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

ORDER

The petitioner who was arrested on 29.09.2021 and remanded to judicial custody for the offences under Sections 363, 366 IPC, Sections 5(I), 5(j)(ii), 6 of POCSO Act and Section 9 of Child Marriage Act, 2006 in Crime No.25 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that petitioner has eloped with the minor victim girl aged about 15 years 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 20.05.2021, the petitioner eloped with the victim girl and performed marriage and had a sexual relationship with the consent of the victim girl and she became pregnant. The petitioner filed an undertaking affidavit in which he has stated that he will take proper and good care of his wife and his child. He further submits that the petitioner has been jail from 29.09.2021. Hence he prays for grant of bail to the petitioner.



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 had sexual relationship and she became pregnant. Further, taking into consideration the fact that the petitioner and victim girl were in love 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, 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 Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai 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/-
27/10/2021

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

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVANNAMALAI.

3 THE OFFICER INCHARGE,
SUB JAIL, THIRUVANNAMALAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.A.S.ASWIN PRASANNA Advocate on payment of necessary charges

CRL OP.19712/2021

Date :27/10/2021

CSK 28/10/2021