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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.21683 of 2021

S.Manikandan

... Petitioners/Accused

Vs.

The StateRep. by
The Inspector of Police,
AWPS Avinashi,
Tiruppur.
(Crime No.174 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioners who is presently in judicial custody in Crime No.174 of 2021 on the file of the respondent police.

For Petitioners : Mr.J.Franklin

For Respondent : Mr.N.S.Suganthan
Government Advocate

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 13.10.2021 for the offence under Section 366 of IPC and Section 5(1) r/w 6 of Protection of Child from Sexual Offences Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006, in Crime No.174 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner and the victim girl were in love with each other. Subsequently, the petitioner is said to have taken away the victim girl by force and married her and also had physical intercourse with her. Therefore, an FIR has been registered for the offence of kidnapping the victim minor girl under POCSO Act.

3. The learned counsel appearing for the petitioner submitted that even as per the FIR, the love affair between the petitioner and the victim girl is accepted. The learned counsel further submitted



that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case.

4. The learned Government Advocate (Crl.side) submitted that the victim girl was taken away by force and the petitioner had physical intercourse with her repeatedly. The 164 statement recorded by the learned Magistrate was also produced before this Court, wherein the victim girl has stated that she was with the petitioner for nearly four days and thereafter she was handed over to her parents by the police.

5. Taking into consideration, the facts and circumstances of the case and also of the fact that the relationship between the petitioner and the victim girl is apparent and there is no question of any force being exerted by the petitioner and the petitioner having suffered incarceration for more than 36 days, this Court is inclined to grant bail to the petitioner subject to the following 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 Magalir Neethimandram (Fast Track Court) Tiruppur, and on further conditions 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 every Friday 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.

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-sd/-

19/11/2021

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 MAGALIR NEETHIMANDRAM,
(FAST TRACK COURT), TIRUPPUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
AWPS AVINASHI, TIRUPPUR.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

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

CRL OP.21683/2021

Date :19/11/2021

APN 22/11/2021