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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.12.2021

CORAM:

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

Cr1.O.P.No.22321 of 2021

R.Kumaran

...Petitioner

Vs.

The State rep. By its  
The Inspector of Police,  
All Women Police Station,  
Poonamallee, Chennai-56.  
Crime No.24 of 2021.

...Respondent

**PRAYER:** Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail pending investigation in the case in Crime No.24 of 2021 on the file of the respondent police.

For Petitioner : M/s.C.P.Sivamohan

For Respondent : Mr.N.S.Suganthan  
Government Advocate (Cr1.Side)

#### ORDER

The petitioner who was arrested and remanded to judicial custody on 30.09.2021 for the offences under **Sections 376(3), 498(A), 494, 506(1) IPC, 5(1) (n) r/w Sec.6 of POCSO Act 2012 & 9, 10 of the Prohibition of Child Marriage Act 2006** in Crime No.24 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the age of the defacto complainant/victim girl is 15 years and the age of the accused is about 29 years. The defacto complainant's sister one S.Gayathri was married to the petitioner's brother who is A2. The marriage took place on 24.01.2016. It was an arranged marriage. The victim married with the petitioner and the marriage between the petitioner and the victim took place on 04.04.2016. On the side of the defacto complainant stated that the petitioner compelled and forced her mother to arrange marriage with her. Hence, the marriage was taken place on 04.04.2016. At the time of marriage the victim girl was below



the age of 18 years and the petitioner has committed aggravated penetrative sexual assault on the victim girl repeatedly. Hence, the defacto complainant lodged a complaint against the petitioner.

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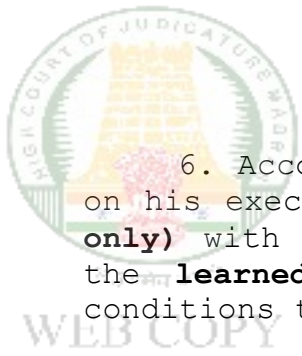
3. The learned Counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submits that the petitioner has no objection that his wife/victim along with her sister, who is wife of A2 with her children and her mother to reside in the house which stands in the name of A1, A2/his brother. He furthermore submits that the petitioner has been suffering incarceration from 30.09.2021. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) submits that the petitioner married the younger sister of one S.Gayathiri/wife of A2 and due to some misunderstanding with her, the petitioner and his brother filed HMOP Nos.221 and 224 of 2021 before the Sub Court, Kancheepuram. The petitioner was alleged to have misbehaved with the victim girl even prior to the marriage and forced her to marry him. Subsequently, the petitioner developed intimacy with another girl. He further submits that the victim girl and her sister were supposed to reside at their matrimonial house but the family members of the petitioner have not allowed them to stay there and both girls were suffered in the hands of the family members of the petitioner. Hence, he vehemently opposed for grant of bail to the petitioner.

5. The victim, wife of the petitioner appeared today before this Court along with their two children and with another girl, who is the wife of A2 and at the time of enquiry, wife of A2 submits that after her wedlock with A2, they were blessed with two children and now she is living in her parental house along with her mother without any maintenance given by her husband.

6. On enquiry, this Court found that the two girls/wives of A1 and A2 having two children were living along with their mother and they do not have any source of income. At the time of enquiry, the counsel for the petitioner further submitted that A1 and A2 has no objection that their wives/victim along with their mother in the home which belong to them and to that affidavit has been filed which is also recorded by this Court.

7. On view of the above facts and that the investigation has been completed, this Court is inclined to grant bail to the petitioner with certain conditions and directs A1 and A2 that they should not interfere in the enjoyment of the property of their wives along with their children who are residing in the home of A1 and A2 until further orders.



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 No.1, Poonamallee** 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 is directed to appear 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/-  
06/12/2021

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,  
NO.I, POONAMALLEE.

2 THE CHIEF JUDICIAL MAGISTRATE  
THIRUVALLUR. [FOR INFORMATION]



3 THE INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
POONAMALLEE,  
CHENNAI-56

4 THE OFFICER INCHARGE  
SUB-JAIL, CHENGALPATTU

5 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+1 CC to M/S.C.P.SIVAMOHAN Advocate on payment of necessary  
charges SR.NO.14128

CRL OP.22321/2021

Date :06/12/2021

TA-09/12/2021