



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.12.2021

CORAM:

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

CrI.O.P.No.23316 of 2021

Durairaj

...Petitioner

Vs.

State rep. by its
The Inspector of Police
Pudhuchathiram Police Station,
Namakkal District.
Crime No.682 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to grant bail to the petitioner in Crime No.682 of 2021 on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 18.11.2021 for the offences under Sections 366 IPC, 9 PCM Act and Section 5(1), 5(j)(ii) r/w. 6 of POCSO Act 2012 , in Crime No.682 of 2021 on the file of the respondent police seeks bail.

2. The case of the prosecution is that the petitioner kidnapped the victim girl aged about 16 years and married her and also had sexual intercourse with her on several times due to which, she became pregnant and given birth to a child. Hence, the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner and the victim girl and the petitioner fell in love with each other and it was objected by the parents of the victim. Hence, she voluntarily left from her parental home and married the petitioner and lived in the petitioner's home. Subsequently she became pregnant and at the time of medical check up, the Child



Welfare Officer found her age and lodged the complaint. He would submit that now the victim has given birth to a female child and the petitioner is ready and willing to take care of them. He would further submit that the petitioner has been suffering incarceration for 15 days from 18.11.2021. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) raised objection but admits that statement of the victim girl has been recorded under Section 164 Cr.P.C. and now the victim girl and her 3 months old child are under the care of her parents and that the investigation is almost completed.

5. Considering the facts and circumstances of the case and the investigation is almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

6. Accordingly, the petitioner is directed to file an affidavit that he would take care of his wife (victim girl) and the female child born to them before the trial Court. On filing of such affidavit, 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 Sessions (Fast Track Mahila) Judge, Namakkal, 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 on every Wednesday 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.

7. The petitioner is directed to appear before this Court along with his child and wife (victim girl) on 15.12.2021 at 10.30 a.m.

8. For reporting compliance, post on 15.12.2021.

-sd/-

03/12/2021

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 SESSIONS (FAST TRACK MAHILA) JUDGE,
NAMAKKAL.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE INSPECTOR OF POLICE,
PUDHUCHATHIRAM POLICE STATION,
NAMAKKAL DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. W.CAMYLES GANDHI Advocate on payment of necessary charges SR.NO.14049

CRL OP.23316/2021

Date :03/12/2021

RW 03/12/2021