



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

CORAM:

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

Cr1.O.P.No.24363 of 2021

Sakthivel

.. Petitioner

Vs.

The State Rep.by
The Inspector of Police,
Vellode Police Station,
Erode District.
(Crime No.209 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in crime No.209 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Thirumoorthy

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 08.10.2021 for the offences under Sections 5(1) and 6 of Protection of Children from sexual offences Act 2012 u/s 9 of Prohibition of Child marriage Act, 2006 in Crime No.209 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that defacto complainant is the mother of the victim girl had lodged a complaint before the respondent police stated that the petitioner and the minor victim girl had developed a love affair with each other through mobile phone, the father of the defacto complainant came to know that , he warned her and taken the mobile phone in his custody and thereafter, the victim girl went along with petitioner and got married . Hence, the complaint.



3. The learned counsel for the petitioner submits that petitioner and victim girl have love affair with petitioner and victim girl eloped with him with her consent. Further he submits that the petitioner is falsely implicated in this case. On behalf of the petitioner he produced the affidavit stating that petitioner is ready to marry the victim girl. He further submits that the petitioner has been suffering incarceration for more than 65 days from 08.10.2021. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate raising objection stated that victim girl had love affair with petitioner and she eloped with him and further submits that the statement of the victim girl under Section 164 of Cr.P.C was also recorded.

5. A perusal of 164 Statement reveals that the minor victim girl on her own volition eloped with the petitioner and had sexual relationship on her consent.

6. At the time of argument, the learned counsel for the petitioner on instructions submits that the petitioner has expressed his willingness to marry the victim girl after she attaining majority and to that effect the petitioner has filed an undertaking affidavit.

7. Considering the facts and circumstances of case and considering the period of incarceration suffered by the petitioner and also the fact that the victim girl on her own volition eloped with the petitioner and petitioner filed an undertaking affidavit, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on their executing a bonds for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, for a like sum to the satisfaction of the learned Sessions Judge, Magalir Neethi mandram, Erode, 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 before the respondent police on every Tuesday and Sunday 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/-

13/12/2021

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,
MAGALIR NEETHI MANDRAM, ERODE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE INSPECTOR OF POLICE,
VELLODE POLICE STATION,
ERODE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.R.THIRUMOORTHY Advocate on payment of necessary charges SR.NO.14560

CRL OP.24363/2021

Date :13/12/2021

RW 14/12/2021