



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.12.2021

CORAM:

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

CrI.O.P.No.24111 of 2021

Gopi

.. Petitioner

Vs.

The State Rep.by
The Inspector of Police,
Palacode Police Station,
Dharmapuri District.
(Crime No.389 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner/accused on bail in connection with crime No.389 of 2021 pending investigation on the file of the respondent police

For Petitioner : Mr.K.Gandhi Kumar

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 01.09.2021 for the offences under Sections 5(1), r/w 6(1) of POCSO Act 2012 in Crime No.389 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that defacto complainant/victim who is aged about 16 years had lodged a complaint before the respondent police stated that her sister's husband kissed her and one day she had gone for natural calls, at that time petitioner took the victim girl to the meter room and had sexual intercourse with her. Thereafter when the petitioner came to the victim house he had sexual intercourse with her more than once and threatened her not to disclose to anyone. Hence, the complaint.

3. The learned counsel for the petitioner submits petitioner is the sister's husband of the victim girl and he is an innocent person and he has not committed any offence as alleged by the prosecution and he is falsely implicated in this case. He further submits that the petitioner has been suffering incarceration for more than 90 days from 01.09.2021. Hence, he prays for grant of bail.



4. The learned Government Advocate raising objection stated that the statement of the victim girl under Section 164 of Cr.P.C was recorded

5. At the time of the arguments victim girl along with her parents appeared before this Court. On enquiry, the victim girl expressed her opinion that she is not willing to marry the petitioner, but, her parents forced her to marry with the petitioner and the parents of the victim girl also admitted that they were arranged the marriage between him. The victim girl is very much strong in her opinion that she was not willing to marry her sister's husband. Hence, this Court directs the parents of the victim girl not arrange any marriage to the victim girl without her consent and for which they also agreed.

6. Considering the facts and circumstances of case and also considering the period of incarceration suffered by the petitioner and the investigation almost completed, this Court is inclined to grant bail to the petitioners 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, Fast Track Mahila Court, Dharmapuri, 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 appear before the respondent police on every Sunday at 10.30 a.m., until further orders and the petitioner shall not contact the victim girl through any mode until disposal of the case and ;

(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/-

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 JUDGE,
FAST TRACK MAHILA COURT,
DHARMAPURI

2 THE INSPECTOR OF POLICE,
PALACODE POLICE STATION,
DHARMAPURI DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

4 THE OFFICER INCHARGE,
SUB JAIL, DHARMAPURI

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to Mr.K.Gandhi Kumar Advocate on payment of necessary charges Sr.14566

CRL OP.24111/2021

Date :13/12/2021

RVR 14/12/2021