



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.12.2021

CORAM:

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

Crl.O.P.No.24590 of 2021

Mathaiyan

.. Petitioner

Vs.

The State Rep.by
The Inspector of Police,
Palacode Police Station,
Dharmapuri District.
(Crime No.495 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.495 of 2021 pending investigation, on the file of the respondent police.

For Petitioner : Mr.E.Kannadasan

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 23.11.2021 for the offences under Sections 9, 11 of Prevention of Child Marriage Act, and Section 3(a), 4(1) of Protection of Children from Sexual Offence Act in Crime No.495 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl is aged about 17 years and on 10.11.2021 at 5.00 a.m., the petitioner/accused had conducted child marriage with the victim girl at Pathalahalli Murugan Temple with the help of A1 and A3 and had forcible sexual intercourse with the victim girl for one occasion and subjected her for sexual abuse. Hence, the complaint.

3. The learned counsel for the petitioner submits that petitioner is falsely implicated in this case and he has not committed any offence as alleged by the prosecution and he further submits that the with the consent of the both the parents, marriage was conducted. He further submits that the petitioner has been suffering incarceration for more than 20 days from 23.11.2021. Hence, he seeks for grant of bail to the petitioner.



4. The learned Government Advocate raising objection stating that statement of victim girl under Section 164 of Cr.P.C was recorded. He further submits that the investigation was almost completed.

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5. On seeing the entire facts, it reveals that the victim girl is aged about 17 years and the petitioner is aged about 34 years. As per the contention of the victim girl, there is a vast age difference between them. Even though investigation is almost completed, the Parents should not compel the victim girl to get matrimonial relationship with A1/petitioner, since she is being a minor girl at present.

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

6. 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 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.

-sd/-

16/12/2021

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 OFFICER INCHARGE,
DISTRICT JAIL, DHARMAPURI

3 INSPECTOR OF POLICE,
PALACODE POLICE STATION,
DHARMAPURI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges
Sr.14966

CRL OP.24590/2021

Date :16/12/2021

RVR 16/12/2021