



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2021

CORAM:

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

Crl.O.P.No.25348 of 2021

Sakthi

... Petitioner

Vs.

State: Inspector of Police,
All Women Police Station,
Krishnagiri District.
(Crime No.26 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to release the petitioner pending investigation in Crime No.26 of 2021 on the file of the respondent.

For Petitioner : Mr.M.P.Saravanan

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 03.12.2021 for the offences under Sections 363, 366 of IPC, Section 9 and 10 of Child Marriage Act, in Crime No.26 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim minor girl aged about 17 years old was kidnapped by the petitioner and compelled her to marry and got married with her. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner has not committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. He further submits that the the victim girl had love affair with the petitioner and she eloped with the petitioner with her own volition and got married with the petitioner. He further submits that the petitioner has been suffering incarceration for more than 20 days from 03.12.2021. Hence he prays for granting bail to the petitioner.



4. The learned Government Advocate (Crl.Side) submits that the statement of the victim girl under Section 164 of Cr.P.C has been recorded. He further submits that initially the victim girl was missing and later the respondent police came to know that the victim girl was eloped with the petitioner/accused and got married with the petitioner. He further submits that investigation was almost completed and the victim girl has been secured and now the victim girl is under the custody of her parents.

5. A perusal of 164 Statement reveals that the victim girl had love affair with the petitioner and she eloped with the petitioner with her own volition and got married with the petitioner and there is no sexual allegations levelled against the petitioner.

6. Considering the period of incarceration suffered by the petitioner and investigation almost completed and also considering the fact that there is no sexual allegations levelled against the petitioner, 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 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, Additional Mahila Court, Krishnagiri 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 and co-operate with the investigation without fail ;

(c) the petitioner shall file an affidavit of undertaking before the trial Court with regard to performance of marriage with the victim girl along with the petitioner's mother Signature;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) 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/-
23/12/2021

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,
ADDITIONAL MAHILA COURT, KRISHNAGIRI.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION].

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KRISHNAGIRI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.M.P.SARAVANAN, Advocate on payment of necessary charges

CRL OP.25348/2021

Date :23/12/2021

JPA 27/12/2021