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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

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

Crl.O.P.No.41 of 2022

ARUNESHWAR

... Petitioner

Vs.

State by Inspector of Police
Perambalur Police Station
Perambalur District
(Crime No.1500 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail pending investigation in Crime No.1500 of 2021, on the file of the respondent.

For Petitioner : Mr.A.Murugavel

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 02.12.2021 for the offence under Section "Girl Missing @ 363 read with 366 IPC and Section 5(1) read with Section 6 of POCSO Act, in Crime No.1500 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 26.11.2021, the daughter of the defacto complainant was found missing. Hence, on the complaint of the defacto complainant, initially the case was registered for "Girl Missing". Later, on enquiry it was found that the petitioner had kidnapped the victim girl under the pretext of marrying her and also had sexual intercourse with her. Hence, the case was altered as stated above.



3. The learned Counsel for the petitioner would submit that there was a love affair between the petitioner and the victim girl and thereby, a false case has been foisted against the petitioner and that the petitioner has been suffering incarceration for more than 35 days from 02.12.2021. Hence, he would pray for grant of bail to the petitioner.

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

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and also perused the statement of the victim girl recorded under Section 164 Cr.P.C.

6. It is seen that there was a love affair between the petitioner and the victim girl which has been fairly admitted by the victim girl at the time of recording her statement under Section 164 Cr.P.C. Considering the above facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Judicial Magistrate-I, Perambalur, within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police on every Saturday at 10.30 a.m. until further orders.



(e) the petitioner shall not commit any offences of similar nature;

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(f) the petitioner shall not abscond either during investigation or trial;

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

(h) on breach of any of the aforesaid conditions, the learned Judicial 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];

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

-sd/-
05/01/2022

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,
NO.1, PERAMBALUR.

2 THE CHIEF JUDICIAL MAGISTRATE
PERAMBALUR [FOR INFORMATION].



3 THE INSPECTOR OF POLICE,
PERAMBALUR POLICE STATION,
PERAMBALUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to Mr.A.Murugavel Advocate on payment of necessary charges
SR.NO.169

CRL OP.41/2022

Date :05/01/2022

JPA 05/01/2022