



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM:

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

Crl.O.P.No.115 of 2022

Viswanathan

.. Petitioner

Vs.

State rep.by Inspector of Police,
Erode South Police Station,
Erode District.
(Cr.No.479 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.479 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.C.S.Saravanan

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 28.11.2021 for the offences under Section 366 IPC and Section 5(1) r/w 6 of Protection of Children from Sexual Offences (POCSO) Act 2012 in Crime No.479 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl is the daughter of the defacto complainant and the petitioner is neighbor of the defacto complainant and both are one and same caste and the victim girl is found missing on 26.11.2021 at 8.30a.m. Hence, the complaint.

3. The learned Counsel for the petitioner submits 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 petitioner is a married person and living with his wife and there was previous enmity between the petitioner and the defacto complainant, the defacto complainant lodged a false complaint against him. He further submits that the petitioner has been suffering incarceration for more than 40 days from 28.11.2021. Hence, he seeks to grant bail to the petitioner.



4. The learned Government Advocate (Crl. Side) on instructions submits that the investigation was almost completed and the minor girl was secured. He further submits that the statement of the victim girl under Section 164 Cr.P.C has been recorded, in which the victim girl has mentioned one David, the said David and the petitioner/Viswanathan herein are one and the same. However, he vehemently opposed to grant bail to the petitioner.

5. A perusal of the 164 Statement reveals that the victim girl on her own volition eloped with the petitioner and got married at the temple.

6. Considering the facts and circumstances of the case and also considering the submissions made by both counsel and the fact that the minor victim girl on her own volition eloped with the petitioner and got married and also considering the period of incarceration undergone by the petitioner, this court is inclined to grant bail to the petitioner with conditions.

[a] 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), before the learned Sessions Magalir Neethimandram (Fast Track Mahila Court), Erode 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 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 everyday at 10.30 a.m. until further orders;

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] the petitioner shall not abscond either during investigation or trial;

[g] 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;

[h]if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

07/01/2022

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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 NEETHIMANDRAM,
(FAST TRACK MAHILA COURT),
ERODE.

2 THE INSPECTOR OF POLICE,
ERODE SOUTH POLICE STATION,
ERODE DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

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

CRL OP.115/2022

Date :07/01/2022

INBA-10/01/2022