



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2022

CORAM:

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

Cr1.O.P.No.571 of 2022

B.Sekar

... Petitioner

Vs.

The State
Rep. by the Inspector of Police,
Polur All Women Police Station,
Thiruvannamalai District.
(Crime No.17 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 respect of Crime No.17 of 2021 on the file of the Inspector of Police, Polur All Women Police Station, Thiruvannamalai District..

For Petitioner : Mr.S.B.Viswananthan

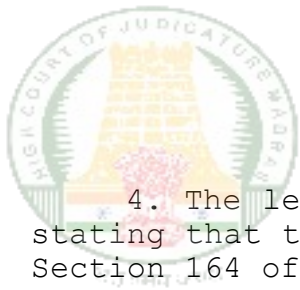
For Respondent : Mr.A.Gokula Krishnan
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 19.12.2021 for the offences under Sections 376(2)(n) and 376(3) of IPC and Sections 5(1) and 6 of Protection of Children from Sexual Offences Act read with Section 9 and 10 of Child Marriage Act in Crime No.17 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused has committed aggravated penetrative sexual assault upon the minor victim girl who is aged about 15 years. 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 and the victim minor girl loved each other and the victim minor girl on her own volition eloped with the petitioner and they got married and committed penetrative sexual assault with her consent. He further submits that the petitioner was suffering incarceration for 32 days from 19.12.2021. Hence, he seeks to grant bail to the petitioner.



4. The learned Additional Public Prosecutor would raise objection stating that the statement of the minor victim girl was recorded under Section 164 of Cr.P.C and the investigation was almost completed.

5. A perusal of 164 Statement reveals that the parents of the victim girl compelled her to marry the petitioner without her consent and there is no serious allegations as against the petitioner.

6. Considering the facts and circumstances of the case and also the fact that the investigation was almost completed and there is no serious allegations levelled against the petitioner 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 each like sum for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the Judicial Magistrate's Court, Polur, 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 every Saturday at 10.30 a.m. until further orders and the petitioner shall not communicate the victim girl without her consent;

[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/-

20/01/2022

WEB COPY

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' SCOURT,
POLUR, TIRUVANNAMALAI DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE,
TIRUVANNAMALAI DISTRICT (FOR INFORMATION).

3 THE INSPECTOR OF POLICE,
POLUR ALL WOMEN POLICE STATION,
THIRUVANNAMALAI DISTRICT.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 CC to M/S. S.B.VISWANATHAN Advocate on payment of necessary charges SR.NO.831

CRL OP.571/2022

Date :20/01/2022

INBA~21/01/2022