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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2022

CORAM:

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

Crl.O.P.No.918 of 2022

Mohansabari

... Petitioner

Vs.

The State,
Rep by Inspector of Police,
Valapadi Police Station.
(Cr.No.599 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail concerned in Crime No.599 of 2021 on the file of the respondent police.

For Petitioner : Mr.V.Manimaran
For M/S.P.Vigneshkumar

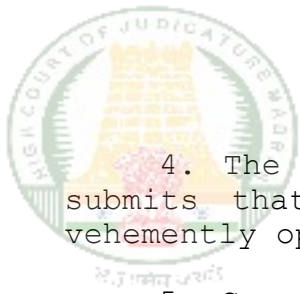
For Respondent : Mr.N.S.Suganthan
Government Advocate(Crl.Side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 25.11.2021 for the offences under Sections 9, 10 of Prohibition of Child Marriage Act, 2006 and 5(1), 17 r/w 6 of Protection of Children from Sexual Offences (POCSO) Act 2012 in Crime No.599 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant lodged a complaint before the respondent police stated that without the consent of the victim, her marriage with the petitioner was conducted on 29.10.2021 and the petitioner, who is the husband of the victim had committed penetrative sexual assault more than one occasion against her. 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 also submits that with the consent of both the family members, marriage was performed though the victim was a minor girl. Thereafter, they have settled in the petitioner's house and they lived together. He further submits that the petitioner has been suffering incarceration for more than 40 days from 25.11.2021. 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. However, he vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and also the fact that petitioner is ready to take care of the victim girl in future and to that effect, the petitioner shall file an undertaking affidavit before the Court below, 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 Special Court for Exclusive Trial of Cases Under POCSO Act, Salem 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 Tuesday and Saturday at 10.30 a.m. until further orders;

[e] the petitioner shall file an undertaking affidavit before the concerned Court, failing which the bail granted by this Court shall stand dismissed automatically;

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

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

[h] 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;



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

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-sd/-

12/01/2022

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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

3 INSPECTOR OF POLICE,
VALAPADI POLICE STATION,
SALEM DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.P.VIGNESHKUMAR Advocate on payment of necessary charges Sr.671

CRL OP.918/2022

Date :12/01/2022

RVR 19/01/2022