



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2022

CORAM:

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

Cr1.O.P.No.1321 of 2022

Subash

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Palladam Police Station,
Tiruppur District.
(Crime No.1865 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.1865 of 2021 on the file of the respondent police.

For Petitioner : Mr.K.Subramaniam

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 22.11.2021 for the offences under Sections 366 of IPC and Sections 3(a) r/w 4 of Protection of Children from Sexual Offences Act 2012 and Section 9 of Child Marriage Act in Crime No.1865 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 against the petitioner before the respondent police stated that her daughter who is aged about 16 years was missing. 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 he further submits that the victim parents arranged the marriage to her with their relative, due to which, 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 60 days from 22.11.2021. Hence, he seeks to grant bail to the petitioner.

4. The learned Additional Public Prosecutor raised objection stating that the petitioner had committed penetrative sexual assault against the minor victim girl and he further submitted that the statement of the victim girl under Section 164 of Cr.P.C has been recorded and now the victim girl is under the custody with her parents.

5. A perusal of 164 Statement reveals that the minor victim girl had love affair with the petitioner and on her own volition, she eloped with the petitioner and got married and had sexual relationship without her consent.

6. Considering the facts and circumstances of the case and the investigation was almost completed and also the fact that the minor victim girl had love affair with the petitioner and on her own volition, she eloped with the petitioner and got married, 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 II Additional District and Sessions Judge, (Fast Track Mahila Court) Tiruppur, 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 at 10.30 a.m. until further orders and the petitioner shall not communicate with the victim girl through any mode till the disposal of the case;

[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/-

24/01/2022

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 II ADDITIONAL DISTRICT AND SESSIONS JUDGE,
(FAST TRACK MAHILA COURT),
TIRUPPUR.

2 THE INSPECTOR OF POLICE,
PALLADAM POLICE STATION,
TIRUPPUR DISTRICT.

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 CC to M/S K.BALASUBRAMANIAM Advocate on payment of necessary charges SR.NO.1102

CRL OP.1321/2022

Date :24/01/2022

INBA~25/01/2022