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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.01.2022

CORAM:

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

CrI.O.P.No.1792 of 2022

Yogaraj

...Petitioner

Vs.

State rep. by
The Inspector of Police,
Arumbavur Police Station,
Perambalur District.
(Crime No.476 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to grant bail to the petitioner pending investigation, in Crime No. 476 of 2021 on the file of the Respondent police.

For Petitioner : M/s.N.Palanisamy

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 15.09.2021 for the offences under **Section Girl Missing @ 363, 366 of IPC, Sections 5(1) r/w 6 of POCSO Act 2012 and 9 of Child Marriage Act 2006**, in Crime No. 476 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 23.08.2021, the daughter of the defacto complainant was missing. Initially the case was lodged under Section "Girl Missing" and later it was found that the petitioner kidnapped the victim girl who is aged about 17 years and married her and also committed penetrative sexual assault on her. Hence, the case was altered as stated above.



3.The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. The petitioner and the victim girl were in love with each other and the same was refused by the parents of the victim and they had arranged marriage of the victim with some other person. Hence, the victim on her own volition eloped with the petitioner and married him and the petitioner without knowing the consequences, married the victim girl. He would submit that the petitioner is ready to take care of the victim girl as his wife once she attains majority and that the petitioner has been suffering incarceration for more than 4 months from 15.09.2021. Hence, he would pray for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would raise objection stating that the victim girl is a minor aged about 16 years but admits that the investigation is almost completed and the statement of the victim girl has been recorded under Section 164 Cr.P.C.

5.A perusal of the statement of the victim girl recorded under Section 164 Cr.P.C. reveals that the victim girl married the petitioner.

6. Considering the above facts and circumstances of the case and the investigation is almost completed 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, is directed to **file an affidavit before the concerned Court that he would take care of the victim girl as his wife once she attains majority. On filing of proof of such affidavit, 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 Sessions Judge, Mahila Court, Parambalur, 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;**



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(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 Wednesday at 10.30 a.m. until further orders.

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

(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.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
28/01/2022

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 SESSIONS JUDGE,
MAHILA COURT, PERAMBALUR.



2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1 CC to M/S.N.PALANISAMY Advocate on payment of necessary
charges SR.NO.1355

CRL OP.1792/2022

Date :28/01/2022

TA-31/01/2022