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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.02.2022

CORAM:

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

Cr1.O.P.No.1972 of 2022

Jayapal

.. Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Perambalur District.
(Crime No.34 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.34 of 2021 for the alleged offences under Sections 5(1) and Section 6 of POCSO Act, 2012, 9 and 10 of Prohibition of Child Marriage Act, 2006 and Sections 294(b), 323 and 506(ii) of IPC on the file of the respondent police .

For Petitioner : Mr.G.Ilamurugu

For Respondent : Mr.N.S.Suganthan
Government Advocate (Cr1.Side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 17.12.2022 for the offences under Sections 5(1) and r/w 6 of POCSO Act, 2012, 9 and 10 of Prohibition of Child Marriage Act, 2006 and Sections 294(b), 323 and 506(ii) of IPC in Crime No.34 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner married the defacto complainant when she was a minor and thereafter she came to know that the petitioner is impotent and he had 4 holes in his body and also suppressed his physical ailment. On knowing the fact, the defacto complainant left the matrimonial home. Then, the petitioner quarrelled with the defacto complainant and abused her in filthy language and threatened her with dire consequences. 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 marriage was performed by the petitioner and the victim girl with the consent of both parents. He further submits that the petitioner has been suffering incarceration for more than 45 days from 17.12.2021. Hence, he seeks to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) on instructions submits that the petitioner married the defacto complainant when she was at 17 years and then she came to know about the petitioner is impotent and he has four holes in the body, due to which, she left the matrimonial house and lodged complaint, then the petitioner's family threatened her to withdraw the complaint. He further submitted that the statement under Section 164 Cr.P.C recorded and the investigation almost completed. However, he vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and also considering the submissions made by both counsel and the fact that 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 learned District Sessions Judge, Mahila Court, Perambalur, 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 petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One lakh only) to the credit of Crime No.34 of 2021, before the concerned Magistrate within a period of fifteen (15) days after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier and on such deposit, after attaining majority, the victim is permitted to withdraw the said deposit amount of Rs.1,00,000/- on proper identification and acknowledgment;



[d] 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;

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[e] the petitioner shall appear before the respondent police on every Monday at 10.30 a.m for a period of four weeks, until further orders and shall not have any communication with the victim girl and her family members and the petitioner shall also appear before the concerned court on all hearings without fail;

[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.

-sd/-

03/02/2022

This order, on being produced, be punctually observed and carried into execution by all concerned

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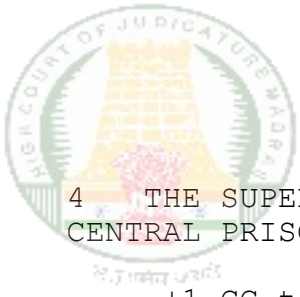
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE DISTRICT SESSIONS JUDGE
MAHILA COURT, PERAMBALUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PERAMBALUR DISTRICT.



4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

+1 CC to M/S. G.ILAMURUGU Advocate on payment of necessary
charges SR.NO.1804

CRL OP.1972/2022

Date :03/02/2022

TA-04/02/2022