



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P.No.3467 of 2022

M.Chinnadurai @ Velliyan

...Petitioner

Vs.

The State Represented by
The Inspector of Police
Hogenakkal Police Station,
Dharmapuri District
(Crime No.7 of 2022)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Criminal Procedure Code, 1973 praying to enlarge the petitioner in Crime No.7 of 2022 on the file of the respondent police.

For Petitioner : Mr.C.Palanisamy

For Respondent : Ms.G.V.Kasthuri
Additional Public Prosecutor

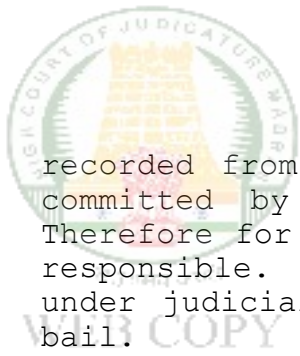
ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 12.01.2022 for the offences under Sections 5(1), 5(i)(ii), 6(1) of POCSO Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006 in Crime No.7 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had involuntary sexual intercourse with the defacto complainant and the case was registered based on confidential information received by the respondent police.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the averment found in the first information report as well as in the 161 Cr.P.C. statement



recorded from the victim girl would go to show that everything had committed by the accused with the consent of the victim girl. Therefore for the alleged occurrence, the victim girl is also equally responsible. It is his specific submission that the petitioner is under judicial custody from 12.01.2022 onwards. Hence, he prays for bail.

4. M/s.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that during the relevant point of time, both the petitioner and the victim girl eloped from their village and after completion of marriage, both of them were stayed in the single room.

5. The submissions made by the learned Counsel on either side are considered.

6. The present case has been registered against the petitioner for the offences punishable under Sections 5(1), 5(i)(ii), 6(1) of POCSO Act, 2012 and Section 9 of the Prohibition of Child Marriage Act, 2006. The averment found in the 161 Cr.P.C. statement which has been given by the victim girl before the Magistrate would show that the petitioner and the victim girl are lovers. Both of them eloped from their village and after solemnisation of marriage, both of them were residing jointly for considerable period. Only after knowing the pregnancy of the victim girl, the present case has been registered against this petitioner. In otherwise, it is not in dispute everything had happened with the consent of the victim girl.

7. Therefore, taking note of all the above said aspects into consideration and having regard to the nature of offence committed by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) the petitioner is ordered to be released on bail to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Learned Fast Track Mahila Court at Dharmapuri

(b) 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;

(c) the petitioner shall report before the respondent police daily at 10.00 a.m. until further orders.

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;



(e) 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];

(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

14/02/2022

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 FAST TRACK MAHILA COURT
DHARMAPURI.

2 THE INSPECTOR OF POLICE,
HOGENAKKAL POLICE STATION,
DHARMAPURI DISTRICT.

3 THE OFFICER CHARGE,
CENTRAL JAIL, DHARMAPURI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S C. PALANISAMY Advocate on payment of necessary charges

CRL OP.3467/2022

Date :14/02/2022

CSK 15/02/2022