



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. No.4332 of 2022

Gowtham

... Petitioner / A-1

versus

State Rep. by
Inspector of Police
All Women Police Station,
Thiruchengodu,
Namakkal District.
(Crime No.3 of 2022)

... Respondent / Complainant

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.3 of 2022 on the file of the respondent police.

For Petitioner : Mr.C.S.Saravanan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.01.2022 for the offences punishable under Section 450 of IPC and Section 9 of Prohibition of Child Marriage Act, 2006, 5(1) r/w 6 of the Protection of Child from Sexual Offences Act, 2012 in Crime No.3 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner kidnapped the de facto complainant's daughter, who is aged about 17 years and sexually assaulted her. Hence, the complaint.

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 in the alleged occurrence,



both the petitioner and the victim child fell in love with each other and later, with the help of their friends, they themselves performed the marriage. According to him, the petitioner is in judicial custody from 14.01.2022 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she admits that, in the alleged occurrence, both the petitioner and the victim child themselves performed the marriage.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case against this petitioner for the offences punishable under Section 450 of IPC and Section 9 of Prohibition of Child Marriage Act, 2006, 5(1) r/w 6 of the Protection of Child from Sexual Offences Act, 2012. The averments found in the First Information Report and the statement recorded under Section 164(5) Crl.P.C. would reveal the fact that before the occurrence, both the petitioner and the victim child fell in love with each other and later, with the help of their friends, they performed the marriage. Therefore, the said act committed by the petitioner comes within the scope of POCSO Act, is a matter for trial, in otherwise, for completing the investigation, further custody of the petitioner may not be necessary.

6. Therefore, taking note of the above said aspects into consideration and having regard to the nature of offence committed by the petitioner and also by considering the period of incarceration, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall 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 Sessions Judge [Fast Track Mahila Court], Namakkal;

(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 is directed to appear 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.

-sd/-
22/02/2022

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 SESSIONS JUDGE,
[FAST TRACK MAHILA COURT], NAMAKKAL.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUCHENGODU, NAMAKKAL DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.4332/2022

Date :22/02/2022

JPA 23/02/2022