



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.6292 of 2022

Selva

... Petitioner

Vs.

State rep by
Inspector of Police,
Hogenakkal Police Station,
Dharmapuri District
(Cr.No.9 of 2022)

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

For Petitioner : Mr.B.Gopalakrishnan

For Respondent : M/s. G.V.Kasthuri
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 22.01.2022 for the offences under sections 5(1) (j) (ii) r/w 6(1), 16, 17 of POCSO Act 2012 and 9 and 10 of Prohibition of Child Marriage Act 2006 in Crime No.9 of 2022, on the file of the respondent police, seeks bail.

2. The allegation against the petitioner and other accused in this case is that, the defacto complainant was in love with the petitioner/first accused, against her wish, her parents married her to her paternal uncle one Krishna, during May 2020. Her paternal uncle/ husband krishna had sexual relationship with her several times. The defacto complainant did not wants to live with her husband Krishna and left the matrimonial home and came to her parental house on September 2021. Then the petitioner with a promise to marry her,



had a sexual relationship with her several times. As a result, she got conceived. When she informed this fact to the petitioner, he denied the paternity. Therefore, this complaint.

3. The learned Counsel for the petitioner submitted that the petitioner loved the defacto complainant but denied having any sexual relationship with her. He is in Judicial Custody from 22.01.2022 and prays to release the petitioner on bail.

4. The learned Additional Public Prosecutor opposed the petition on the ground that investigation is not over and the medical examination of the petitioner and the defacto complainant is over, the report is not received and the investigation is not completed.

5. Considered the rival submissions and perused the records.

6. It is in from the submissions and records that the defacto complainant was married against her wish to her paternal uncle Krishna and when she was not able to live with him, she left the matrimonial home and came back to the paternal home, and started to have relationship with her former lover/petitioner herein.

7. The 164 Cr.P.C statement also reflects that her marriage with Krishna is not to her liking and she was in relationship with the petitioner on the promise made by him to marry her. It is also said that someone else informed the child line and the police detained her parents.

8. Taking into consideration, the nature and the facts and circumstances of the case the and the fact that medical examination of the petitioner and defacto complainant is over, that there is an element of involvement on the part of the defacto complainant in the alleged relationship with the petitioner, this Court is inclined to grant bail to the petitioner with certain 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 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 is directed to report before the Investigating Officer daily at 10.30 am, 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 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/-
18/03/2022

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 INCHARGE
DISTRICT JAIL, DHARMAPURI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.B.GOPALAKRISHNAN Advocate on payment of necessary charges SR.NO.4178

CRL OP.6292/2022

Date :18/03/2022

JPA 18/03/2022