



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.12993 of 2022

Kozhi Siva @ Siva

.. Petitioner

Vs.

State,
Represented by Inspector of Police,
All Women Police Station,
Kanchipuram.
Crime No.45 of 2022.

.. Respondent

PRAYER:-

Criminal Original Petition is filed under Section 437 of Cr.P.C. praying to enlarge the petitioner on bail in the above said crime No.45 of 2022 pending investigation on the file of the respondent police.

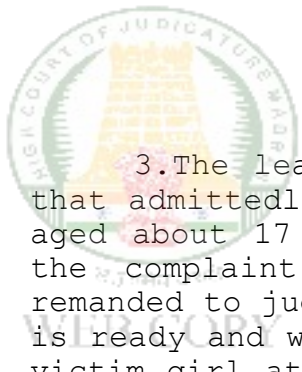
For Petitioner : Mr.P.Dinesh Kumar

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 10.04.2022 for the offence under Sections 363, 365, 366, 376 (2) (n) of Indian Penal Code r/w Section 5 (1) and Section 6 (1) of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006 in crime No.45 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the victim minor girl aged 17 years went missing and on enquiry, it is alleged that petitioner married the victim girl and had sexual relationship with her on multiple occasions. Hence, the defacto complainant lodged a complaint against the petitioner.



3.The learned counsel appearing for the petitioner would submit that admittedly the petitioner got married with the victim minor girl aged about 17 years. They were living together happily. However, on the complaint of girl missing, the petitioner was arrested and remanded to judicial custody. He further submitted that the petitioner is ready and willing to register their marriage immediately after the victim girl attains majority. To that effect, he also filed affidavit before this Court and he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that though there was love affair between the petitioner and the victim girl, he committed sexual assault with victim minor girl aged 17 years and statement was recorded under Section 164 Cr.P.C. A perusal of the statement recorded under Section 164 Cr.P.C. revealed that the victim girl was born on 25.04.2005 and she fell in love with the petitioner. They got married and stayed in the rental house for so many days and they had physical relationship. When the victim's father lodged complaint, the petitioner was arrested and remanded to judicial custody. Now, the petitioner is ready and willing to register their marriage immediately after the victim girl attains majority. However, he vehemently opposed to grant bail to the petitioner.

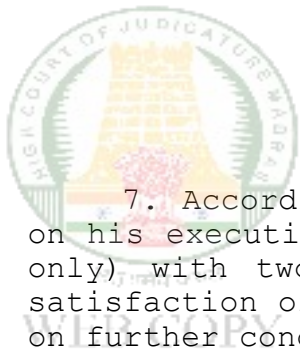
5.The affidavit filed by the petitioner is as follows:

"i.I am the petitioner herein and as such I am well acquainted with the facts and circumstances of the case. I am presently confined in the Central Prison, Chengalpet since, 10.04.2022.

ii.I said that I filed the above criminal original petition seeking bail in the Crime No.45 of 2022 on the file of respondent police for the offences alleged to have been committed under Sections 363, 365, 366, 376 (2) (n) of Indian Penal Code r/w Section 5 (1) and Section 6 (1) of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 9 of Prohibition of Child Marriage Act, 2006.

iii.I state that I am in love with A.Jayalakshmi (alleged victim girls in the above mentioned criminal case). I hereby undertake to register my marriage with Jayalakshmi immediately after the said girl attains majority."

6. Considering the facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner i.e., from 10.04.2022, this Court is inclined to grant bail to the petitioner.



7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two blood related sureties, each for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Kanchipuram and on further conditions that:-

[a] 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.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m for a period of four weeks.

[c] the petitioner shall not abscond either during investigation or trial.

[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 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. Petitioner shall register his marriage with the victim girl A.Jayalakshmi immediately after the attainment of her majority on or before 30.04.2023 and produce their marriage registration certificate before the respondent police. If the petitioner failed to register their marriage between the victim girl, bail granted to the petitioner shall automatically stands cancelled. Respondent is directed to secure the petitioner and proceed in accordance with law.

-sd/-
09/06/2022

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 JUDICIAL MAGISTRATE,
NO.I, KANCHIPURAM

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPET [FOR INFORMATION]

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
KANCHEEPURAM,

4 THE OFFICER INCHARGE
DISTRICT JAIL, CHENGALPET

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.P.DINESH KUMAR Advocate on payment of necessary
charges SR.NO.8715

CRL OP.12993/2022

Date :09/06/2022

RW 09/06/2022