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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2022

CORAM:

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

Crl.O.P.No.25150 of 2021

M.Manikandan

... Petitioner

Vs.

State rep by
The Inspector of Police
All Women Police Station, Tiruchengode,
Namakkal District.
(Crime No.21 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.21 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.C.S.Saravanan

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 03.09.2021 for the offences under **Sections 417, 366 IPC, Section 9 of PCM Act 2006 and Section 5(1), 5(j)(ii) read with 6 of POCSO Act, 2012**, in Crime No.21 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner committed child marriage and aggravated penetrative sexual assault on the victim girl who is aged about 17 years and impregnated her. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that there was a love affair between the petitioner and the victim girl for about two years and thereafter, with the consent of the victim girl, he married her without knowing the consequences and they were



living together and subsequently, she became pregnant and based on the information given by the hospital authorities, the case came to be registered. He would further submit that now the victim girl has given birth to a child and the petitioner is ready to live with the victim and to take care both the victim and the child and that he is also ready to file an affidavit to that effect and that the petitioner has been suffering incarceration for 125 days from 03.09.2021. Hence, he would pray for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) raised strong objection but admits that the statement of the victim girl has been recorded under Section 164 Cr.P.C. and the investigation is almost completed.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and also perused the statement of the victim girl recorded under Section 164 Cr.P.C.

6. It is seen that there was a love affair between the petitioner and the victim girl and at the request of the victim girl, the petitioner has married the victim girl which has been fairly admitted by the victim girl at the time of recording her statement under Section 164 Cr.P.C. Now the victim girl has given birth to a child and that the petitioner is ready to file an affidavit undertaking to take care of the victim girl and the child. Considering the above facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

(a) Accordingly, 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 along with an affidavit of undertaking to take care of the victim girl and the child born to her, and thereafter on his release;

(b) the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned Sessions (Fast Track Mahila Court), Judge, Namakkal, 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 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;

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(d) the petitioner shall report before the respondent police as and when required for interrogation.

(e) the petitioner shall not commit any offences of similar nature; Affidavit filed by the petitioner is forming part of the order.

(f) the petitioner shall not abscond either during investigation or trial;

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

(h) 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];

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

-sd/-

05/01/2022

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 SESSIONS (FAST
TRACK MAHILA COURT) JUDGE, NAMAKKAL.



2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUCHENGODE,
NAMAKKAL DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

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

CRL OP.25150/2021

Date :05/01/2022

TA-07/01/2022