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Crl.OP.No.29966 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

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

Crl.OP.No.29966 of 2022

Abi @ Abishekpachan

..Petitioner

Vs.

The State rep. by
The Inspector of Police,
All Women Police Station, Thiruvarur,
Thiruvarur District.
(Crime No.15 of 2022)

..Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail pending trial in S.C.No.55 of 2022 pending on the file of the learned Sessions Judge, Fast Track Mahila Court, Thiruvarur in Crime No.15 of 2022 pending on the file of the respondent.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.07.2022 for the offences punishable under Sections 6 and 5(I) of Protection of Children from Sexual Harassment Act, 2012, in Crime No.15 of 2022 on the file of the respondent Police, seeks bail.



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2. The case of the prosecution is that the victim is aged about 17 years and the accused fell in love with her, and on the pretext of marriage, they had physical relationship. Hence the complaint.

3. In fact, the petitioner was arrested and remanded to judicial custody on 09.07.2022. Pending the investigation, the family members of the victim are convinced and they are ready and are willing to get the victim girl married to the accused. The accused is also ready and willing to marry the victim girl. To that effect, he has also filed an affidavit before this Court. The said affidavit reads as follows;

“ 2. I state that, the respondent police has register the Crime No.15 of 2022 against the petitioner for the offence punishable under Section 6, 5(I) of Protection of Children from Sexual Harassment Act, 2012. The petitioner remanded in Judicial custody dated 09.07.2022 the petitioner in incarceration for the last 140 days respectively.

3. I state that, originally I had love affair with the one Prema both were maintained the relationship of love affair, after it came to known that the parents of Prema the complaint had lodged, after registering the case the both side parents were taking efforts to



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arrange the marriage, I also will to marry the said Victim Prema after I will released.

4. I state that in the mean time the investigation has been completed by the respondent police in the said Crime number the same was taken on the file of Spl.S.C.No.55 of 2022 and facing the trial proceedings, in such the conclude the trial proceedings nothing will survival because I will marry the victim, it would affected the both the future life.”

4. Now, the petitioner is aged about 20 years and the victim has completed 17 years. Immediately after both of them becomes major, namely the petitioner reaching the 21 years and the victim reaching the age of 18 years, the petitioner shall register his marriage with the victim and produce the marriage registration certificate before the respondent.

5. Considering the above facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner from the date of his arrest i.e, 09.07.2022, this Court is inclined to grant bail to the petitioner with certain conditions.



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6. 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 sureties, each for a like sum to the satisfaction of the Sessions Judge, Fast Track Mahila Court, Thiruvavarur, 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, after completion of 21 years of age shall marry the victim girl and register the same, failing which, the bail granted by this Court shall stands automatically cancelled.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m., and 5.30 p.m., until further orders;

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[f] 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Sessions Judge, Fast Track Mahila Court, Thiruvarur.
2. The Inspector of Police,
All Women Police Station, Thiruvarur,
Thiruvarur District.
3. The District Prison, Thiruvarur.
- 4.The Public Prosecutor,
High Court of Madras.

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