



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.12.2022

PRESENT

WEB COPY

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.21889 of 2022

Ramachandran

...Petitioner/Accused

-VS-

State rep.by
The Inspector of Police,
Alangulam Police Station,
Vembakottai Taluk,
Virudhunagar District.
(in Crime No.113 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Cr.No.113 of 2022.

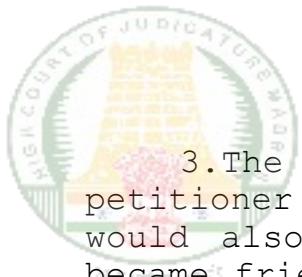
For Petitioner : Mr.G.Mariappan, Advocate

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under the caption "girl missing" @ Section 366(A) IPC and Section 9 of Prohibition of Child Marriage Act and Sections 5(1) r/w 6 of POCSO Act, 2012, in Crime No.113 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Murugan, is that her minor daughter, aged 16 years old, had gone to school and was found missing based on which, a case in Cr.No.113 of 2022 was registered for girl missing. Later, during the course of investigation, it came to light that the accused had kidnapped the victim and performed child marriage and committed sexual intercourse with her. Hence, the case was altered into Section 366(A) IPC and Section 9 of Prohibition of Child Marriage Act and Sections 5(1) r/w 6 of POCSO Act, 2012.



3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false complaint has been given. He would also submit that the petitioner and the victim minor girl became friends through social media and that the petitioner without understanding the consequences of law, had taken the victim girl to Tiruparankundram Murugan Temple and coming to know of the registration of FIR, the petitioner had sent the minor victim girl to her parents' house. He would submit that though initially, the respondent has recorded a statement, as if the petitioner had sexual intercourse with the girl, the petitioner understands that the minor victim girl was produced before the Magistrate and a statement has been recorded from her under Section 164 Cr.P.C., wherein, she had not stated anything about the marriage and not made any allegation against the petitioner for having sexually assaulted her.

4.The learned Counsel for the petitioner would also submit that the petitioner is aged about 20 years and the petitioner, having completed B.A., degree, without the understanding consequences, had taken the girl away. The learned Counsel for the petitioner would also submit that the petitioner is ready to file an affidavit of undertaking before the learned Judicial Magistrate concerned that he will not interfere and disturb the victim girl in future.

5..The learned Government Advocate (Crl.side) would submit that the petitioner had kidnapped the minor victim girl and had married her and committed penetrative sexual assault on her. However, he would fairly submit that a statement from the victim girl has been recorded under Section 164 Cr.P.C., wherein, she has not made any allegations against the petitioner for having married her or having committed any sexual assault on her.

6.Taking into consideration the facts and circumstances of the case and on perusing the 164 Cr.P.C. statement of the minor victim girl, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

7.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Special Judge, POCSO Act cases, Srivilliputhur, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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 everyday at 10.30 a.m., for a period of two weeks and thereafter, every Saturday at 10.30 am until further orders.

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

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

(e) the petitioner shall file an affidavit of undertaking before the learned Judicial Magistrate concerned that he will not disturb or interfere with the victim girl in future.

[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.

Sd/-

13/12/2022

/ TRUE COPY /

/12/2022

Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

cmr

TO

1. THE SPECIAL JUDGE,
POCSO ACT CASES, SRIVILLIPUTHUR.
2. THE INSPECTOR OF POLICE,
ALANGULAM POLICE STATION,
VEMBAKOTTAI TALUK,
VIRUDHUNAGAR DISTRICT.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S. MARIAPPAN.G Advocate SR.No.14803

ORDER

IN

CRL OP(MD) No.21889 of 2022

Date :13/12/2022