



Crl.OP.No.1511 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

CORAM

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

Crl.OP.No.1511 of 2023

Ayyanar

..Petitioner

Vs.

State represented by
Inspector of Police,
Thirupalapanthal Police Station,
Kallakurichi.
(Crime No.5 of 2022)

..Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner/Accused on bail pending investigation in Crime No.5 of 2022 on the file of Inspector of Police, Thirupalapanthal Police Station, Kallakurichi or other orders deeming fit to the just decision of the case.

For Petitioner : Mr.B.Maheswaran

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.04.2022 for the offence punishable under Section 174 of Cr.P.C. altered into Section 306 IPC, Sections 5(1), 6 of POCSO Act r/w Section 4B(2) of TNPWH Act in Crime No.5 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl is aged about 17 years. She fell in love with the petitioner. Thereafter, they had physical relationship. When the victim asked the petitioner to marry her, the petitioner refused to marry her and as such she had consumed poison and committed suicide. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that when the petitioner was ready and willing to marry the victim, there was an incident in his house. His sister had committed suicide by consuming rat poison, due to family dispute. Due to the death of his sister, there was no circumstances to marry the victim. Further, the petitioner and the victim belong to different communities. At that



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At this juncture, the petitioner told the victim to wait for sometime. However, she had taken very hasty decision and committed suicide by consuming poison. He would also submit that the respondent had completed the investigation and filed a final report and the same has been taken cognizance on the file of the Principal District Court, Villupuram in Spl.S.C.No.117 of 2022. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that the victim was a minor girl. Under the pretext of false marriage, he had committed rape on her and subsequently refused to marry her. Therefore, the victim who is aged about 17 years had committed suicide by consuming poison. He had also produced dying declaration of the victim girl. Hence, he vehemently opposed grant of bail to the petitioner.

5. A perusal of dying declaration revealed that the petitioner



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and the victim fell in love with each other. Due to love affair, they had physical relationship. Thereafter, the petitioner did not take care of the victim girl and as such she had committed suicide by consuming poison. Further, a perusal of records revealed that the petitioner's sister had committed suicide by consuming rat poison, due to family dispute. Therefore, when the petitioner told the victim to wait for sometime, the victim had consumed poison and committed suicide and died.

6. Considering the above facts and circumstances of the case, and also taking note of the fact that the petitioner is in judicial custody from 12.04.2022, 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 Special Court for Exclusive Trial of POCSO Cases, Villupuram and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb



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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 Trial Court daily Morning at 10.30 a.m., and Evening 05.00 p.m, until further orders.

[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.

30.01.2023

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G.K.ILANTHIRAIYAN, J.



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To

- 1.The Special Court for Exclusive Trial of POCSO Cases, Villupuram.
2. The Inspector of Police,
Thirupalapanthal Police Station,
Kallakurichi.
3. The Central Prison for men,
Cuddalore.
- 4.The Public Prosecutor,
High Court of Madras

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