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Crl.O.P.No.6589 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06. 2023

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

Crl.O.P.No.6589 of 2023

Loganathan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Arni, Thiruvannamalai District.
(Crime No.7 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in connection with the
Crime No.7 of 2022, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.Deveshwaar

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested and remanded to judicial
custody on 28.01.2023 for the alleged offences punishable under Sections
5(1), r/w 6 of Protection of Child from Sexual Offences and Sections 363,



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366, 376(2)(n), 354 C, 506(ii) of IPC, in Crime No.7 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the accused, who is the neighbour of the de-facto complainant, by inducing her minor daughter, aged about 17 years, on the false promise of marrying her, had sexual intercourse with her and later refused to marry her. The further allegation is that the accused has also threatened her not to reveal their relationship to others or else he will upload her obscene photographs in social media. Hence the case.

3. Learned counsel for the petitioner submitted that the petitioner is an innocent person working in Army and he has been falsely implicated in this case. He also stated that the petitioner is in custody from 28.01.2023. He also submitted that the petitioner is willing to marry the victim girl after she attaining the majority and ready to file an affidavit to that effect. Hence, prays for grant of bail to the petitioner. Victim girl also appeared along with her mother, she also expressed her willingness to marry the petitioner after attaining majority.



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4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner, who was working in Indian Army, on the false promise of marrying the minor victim girl, aged about 17 years, had induced and committed penetrative sexual assault on her and also threatened her that he will upload her obscene pictures in social media, due to which, the victim girl has also attempted to commit suicide. He further submitted that medical examination of the minor victim girl was over and the statement has also been recorded from the victim girl under Section 164 Cr.P.C. He also submitted that the investigation is completed and the charge sheet also filed, now the petitioner is ready to marry the victim girl. Therefore, he vehemently opposed to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

6. This Court is of the view that even though the petitioner is willing to marry the victim girl, the proposal of the marriage is not to be accepted by this time, after attaining the majority the victim girl is entitled to



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marry the petitioner on her own volition. However, considering the period of incarceration suffered by the petitioner and he is willing to marry the victim girl and ready to file an affidavit to that effect, this Court is inclined to grant bail to the petitioner with certain conditions. this Court is inclined to grant bail to the petitioner with certain conditions.

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 sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate, Arni** 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 is directed to appear before the respondent police daily at 10.30 a.m until further orders;

(c) the petitioner is directed to file an affidavit the Court below that he is willing to marry the victim girl after attaining majority.



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

(e)the petitioner shall not abscond 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]*; and;

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

08.06.2023

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To

1. The **Judicial Magistrate, Arni**
- 2.The Inspector of Police,
All Women Police Station,
Arni, Thiruvannamalai District.
3. The Superintendent,



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Central Prison, Vellore.

4. The Public Prosecutor,
High Court of Madras.

T.V.THAMILSELVI, J.

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