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CrI.O.P.No.7462 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2023

CORAM:

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

CrI.O.P.No.7462 of 2023

Marimuthu

.. Petitioner

/versus/

The State rep.by
The Inspector of Police,
All Women Police Station,
Mannargudi,
Thiruvarur District.

(Crime No.2 of 2023)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail pending investigation in Crime No.2 of 2023 on the file of the respondent police.

For petitioner : Mr.J.Jawahar

For Respondent : Mr.C.E.Pratap,
Government Advocate (CrI.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 24.02.2023, for the offence punishable under Sections 5(1),



Crl.O.P.No.7462 of 2023

WEB COPY

5(j)(ii), 6 of Protection of Children from Sexual Offences Act, 2012 r/w Section 9 of Prohibition of Child Marriage Act, 2006, in Crime No.2 of 2023, on the file of the respondent Police, seeks bail.

2.The case of the prosecution as per the defacto complainant minor XXX is that, she is aged about 16 years and when she was young, her parents were separated and she was handed over to one Duraiarasan for doing house keeping work. While so, during August 2022, when she was in Duraiarasan's house, his son namely Arun had committed penetrative sexual assault on her against her will, due to which, she became pregnant and thereafter, they have sent her from the house. While so, on 20.11.2022, she had married one Marimuthu of M.G.R.Nagar, Mannargudi, at that time, she has not informed the said Marimuthu about her pregnancy. Later, the officials from the child help line, coming to know about the pregnancy and the subsequent marriage of the victim, had taken her to R.C. Fathima Children's Home. Based on her complaint, the case has been registered.



Crl.O.P.No.7462 of 2023

WEB COPY

3.Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he is the distant relative to the victim. He further submitted that her parents were separated, when the victim was young and thereafter, she working in the house of one Duraiarasan and later, she was driven out of the Duraiarasan's house and due to the intervention of the relatives, the petitioner has married the victim girl. Later only, the petitioner came to know that the victim was pregnant due to the sexual assault committed by one Arun, son of the said Duraiarasan. He further submitted that the victim has also not made any allegations as against the petitioner and the petitioner, who is a good sennariton, without understanding the consequences and rigours of the Child Marriage Prohibition Act and taking into consideration the plight of the victim, had attempted to give life to her and now, the petitioner is put to a predicament. He also submitted that the petitioner is in judicial custody from 24.02.2023 and hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (crl.side) appearing for the respondent Police submitted that the victim was subjected to sexual



CrI.O.P.No.7462 of 2023

WEB COPY

assault by one Arun, in whose house, she was working as a maid and later, she was driven out by the parents of the said Arun. The petitioner, who is the relative of the victim, had married her and later, on information that she was found pregnant and she was married, the case came to be registered. He further submitted that the statement has also been recorded from the victim girl under 164 Cr.P.C. Hence, he opposed for grant of bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record including the statement recorded under 164 Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail



Crl.O.P.No.7462 of 2023

WEB COPY

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 No.I, Mannargudi**, 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 shall report before the respondent Police everyday at 10.30 a.m., for a period of four weeks and thereafter, on every Saturday at 10.30 a.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



WEB COPY



Crl.O.P.No.7462 of 2023

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 abscond, a fresh FIR can be registered under Section 229A IPC.

10.04.2023

vkr

To

- 1.The Judicial Magistrate No.I
Mannargudi.
- 2.The Inspector of Police,
All Women Police Station,
Mannargudi,
Thiruvarur District.
- 3.The Sub Jail,
Mannargudi.
- 4.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.O.P.No.7462 of 2023

A.D.JAGADISH CHANDIRA,J.

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Crl.O.P.No.7462 of 2023

10.04.2023