



WEB COPY



CrI.O.P.No.10728 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.05.2023

CORAM

THE HON'BLE MR. JUSTICE **SUNDER MOHAN**

CrI.O.P.No.10728 of 2023

P.Suresh

... Petitioner

Vs.

State Rep. By
The Inspector of Police,
Dharmapuri All Women Police Station(AWPS),
Dharmapuri District.
(Crime No.02 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.02 of 2023 pending
investigation on the file of the respondent police.

For Petitioner : Mr.E.Sathiyaraj

For Respondent : Mr. E.Rajthilak
Additional Public Prosecutor



WEB COPY



CrI.O.P.No.10728 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 07.04.2023, for the offences punishable under Sections 9 & 10 of Prohibition of Child Marriage Act 2006 r/w. Section 6 of Protection of Children from Sexual Offence Act, 2012 in Crime No.02 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the marriage between petitioner and the victim girl, who is aged about 17 years, was solemnized on 16.06.2021. Since the marriage was against the provision of Child Marriage Act and POCSO Act, the defacto complainant/Social Welfare Officer lodged a complaint before the respondent police against the petitioner. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. The Marriage was solemnized by the relatives of the petitioner and the victim. He further submitted that the petitioner is in judicial custody from 07.04.2023; that some co-accused were released on bail by the Fast Track Mahila Court, Dharmapuri and some were released on



anticipatory bail by this Court in Crl.O.P.No.2122 of 2023. Hence, he prayed for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the statement under Section 164 of Cr.P.C has been recorded from the victim girl. However, he opposed to grant bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent police and perused the entire materials available on record including the statement recorded under Section 164 of Cr.P.C from the minor victim girl.

6. Considering the facts and circumstances of the case and that the petitioner is in custody from 07.04.2023 and also considering the fact that the victim girl is living together with the petitioner and the co-accused have been granted bail, this Court is inclined to grant bail to the petitioner on the following conditions;



WEB COPY

[a] 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**, for a like sum to the satisfaction of the **learned Fast Track Mahila Court, Dharmapuri.**

[b] 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;

[c] the petitioner shall report before the respondent police as and when required for interrogation;

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

10.05.2023

mpa/lpp



WEB COPY



CrI.O.P.No.10728 of 2023

To

1. The Fast Track Mahila Court, Dharmapuri.
- 2.The Inspector of Police,
Dharmapuri All Women Police Station(AWPS),
Dharmapuri District.
3. The Sub-jail, Dharmapuri.
4. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.10728 of 2023

SUNDER MOHAN, J.

mpa/lpp

Crl.O.P.No.10728 of 2023

10.05.2023