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CRL O.P. No.19194 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :12.08.2024

CORAM

The Hon`ble Mr.Justice P.DHANABAL

CRL OP.No.19194 of 2024

R.Dhanush S/o. Rathinavel

... Petitioner / Accused-A1

Vs

State rep. by:-

The Inspector of Police,
All Women Police Station,
Udumalpet,
Tiruppur District.
[Cr. No.08 of 2024]

... Respondent

For Petitioner : Mr. S.Thankira
For Respondent : Mr. S. Vinoth Kumar
Government Advocate
[Criminal side]

PETITION FOR BAIL Under Sec.483 of B.N.S.S.

PRAYER: - The Criminal Original Petition is filed under Section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2023, praying to grant bail to the petitioner/Accused-A1 in Crime No.08 of 2024 on the file of the respondent police.

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ORDER

The petitioner/accused- A1, who was arrested and remanded to judicial custody on 14.07.2024 for the offences punishable under Sections 5(1), 5(j)(ii) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and Section 9, 10 of Prohibition of Child Marriage Act, 2006 and Section 366, 323 of Indian Penal Code, 1860, in Crime No.08 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner/ accused A1 sexually assaulted the victim girl when she is returning from school, as a result of which, she got pregnant and later, she married him on 12.06.2022 and then gave birth to a baby boy. Later, the accused A2 by promising the victim girl that he will reunite her with the petitioner, spoiled her life by forcible marrying her and committed repeated sexual assault leading to pregnancy and hence the petitioner was arrested and remanded to judicial custody on 07.06.2024. Hence, the complaint.



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3. The learned counsel for the petitioner would contend that the petitioner is an innocent and a false case has been foisted against him. He further stated that her mother informed the petitioner that she is a major at the time of marriage. He is in judicial custody for more than 60 days. Hence, he seeks bail.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner/ accused A1 committed penetrative sexual assault against the victim girl when she is returning from school, as a result of which, she got pregnant and later, she married him on 12.06.2022 and then gave birth to a baby boy and hence the petitioner was arrested and remanded to judicial custody on 07.06.2024. Hence he opposed to grant bail to the petitioner.

5. Heard both side counsels and perused the materials available on record.

6. Considering the representation made on either side and



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considering that already there was a matrimonial dispute between the parties and also as per the Aadhar Card her Date of Birth is 22.06.2003 and as per her school certificate her Date of Birth is 22.06.2006. The correct Date of Birth of the victim has to be decided at the time of trial before the Trial Court and also considering the period of incarceration undergone by the petitioner and considering the fact that the statement of the victim was already recorded and the investigation is almost completed, I am inclined to grant bail to the petitioner, subject to the following conditions:

[a] Accordingly, the petitioner is ordered to be released on bail on condition to 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 **Court of Sessions Judge, Mahalir Neethimandram, (FTMC), Tiruppur**, and on further conditions that:

[b] the petitioner shall report before the POCSO Court, Tiruppur, on every working day until further orders.

[c] the petitioner shall not commit any offences of similar nature.



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[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 Judicial 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 absconds, a fresh FIR can be registered under Section 269 B.N.S.

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index: Yes/No

Internet: Yes/No

Speaking/Non Speaking order

ssa

To

1.Court of Sessions Judge,
Mahalir Neethimandram, (FTMC), Tiruppur,

2.The Inspector of Police,

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All Women Police Station,
Udumalpet,
Tiruppur District.

3.The Sub-Jail, Tiruppur.

4.The Public Prosecutor, High Court, Madras.



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P.DHANABAL,J.

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