

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.07.2020

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Cr1.O.P.No.5791 of 2020

R.Mani @ Manivannan

... Petitioner

Vs.

The State rep. By
The Inspector of Police,
CBI, ACB,
Chennai.

...Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, to enlarge the petitioner on bail pending investigation in Crime P.R.C.No.87 of 2019 on the file of the learned Chief Judicial Magistrate, Coimbatore.

For Petitioner : No Appearance

For Respondents : Mr.K.Srinivasan
Special Public Prosecutor for CBI Cases

ORDER

The petitioner/A5, who was arrested and remanded to judicial custody on 05.04.2019 at the hands of the respondent police for the offences punishable under Sections 354A, 354B, 392 IPC and 66E of Information Technology Act, 2000 and Section 4 of the Prohibition of Harassment of Women Act, 2002 in Crime No.RC2/(S) of 2019, seeks bail.

2.The case of the prosecution is that the petitioner along with the other accused have committed sexual harassment, molestation of the victim girls and they sexually abused the victim girls and thereafter, took obscene videos without the knowledge of the victims and also threatened them. Therefore, the victims were surrendered in sexual exploitation of the accused persons. The petitioner herein gave his car for the commission of said offences to the first accused. In the said car, the accused took obscene videos of the victim girls with a common intention. The obscene videos of the victim girls were forwarded by the first accused to the other accused and thereafter, they by using the said videos, abused and made the victims to surrender again and again for their sexual needs. Further alleged that the accused also raped so many girls/victims and also took obscene videos and thereby they have committed very heinous offences as against the victims. Hence the present complaint.

3.The learned counsel for the petitioner averred in the petition that the only allegation as against the petitioner is that he gave the car which was used for the offence and it is pointed out by the learned counsel for the petitioner that the registration number of the car, which had been pointed out by the prosecution, actually belongs to the first accused. It is also stated that the petitioner is an innocent person and has not committed any offence. The learned counsel further stated that it was the other accused who took the videos and the petitioner was not involved in any of the offence directly. It is also stated that he is innocent of the charges and was not involved in the offence committed. He had voluntarily surrendered before the Chief Judicial Magistrate, Coimbatore on 25.03.2019 and has been in custody from that date for a period more than 200 days. Learned counsel for the petitioner relied upon a judgment of the Hon'ble Supreme Court in CrI.A.No.1218 of 2018 @ SLP (Criminal) No.6453 of 2018, dated 24.09.2018, particularly, paragraph No.15, wherein it is observed as follows:-

"As observed by the Law Commission in paragraph 14.19 of its 41st Report, a practice of doubtful legal validity had grown up where police used to file before a Magistrate a preliminary or incomplete report and the Magistrate, purporting to act under Section 344 of the Code of Criminal Procedure, 1898 used to adjourn the proceedings and remand the accused to custody. It was observed that such remand beyond the statutory period fixed under Section 167 would lead to serious abuse and therefore some time limit was required to be placed on the power of the police to obtain remand and as such the maximum period for completion of investigation was suggested. The objects and reasons for introduction of new Code voiced similar concern."

4.The learned Special Public Prosecutor appearing for CBI Cases would submit that the petitioner/A5 and other accused were directly involved in the offences and that the investigation is in process. He would further submit that the videos extracted from the mobile phone instrument of the accused persons including the obscene videos are under thorough scrutiny with technical support and thereafter, the victims will be examined. He would further submit that in a search conducted on 01.07.2019 at various places including two places where the present petitioner/A5 was residing at Pollachi, Coimbatore District, and one mobile phone and one Idea SIM Card which were suspected to contain obscene videos were also seized. It is also stated that the mobile phone and the SIM Card have been forwarded for Forensic Examination and report is still awaited. It is stated that on receipt of the report, further victims/witnesses will be examined.

5.This is a third bail petition filed by the petitioner/A.5. Taking all these facts into consideration, since the investigation is still pending, and there is no change in circumstances, this Court is not inclined to grant bail to the petitioner. In respect of the precedent stated by the learned counsel for the petitioner, I have to state that in the present case, charge sheet has been filed and list

of the witnesses have also been disclosed and documents have also been disclosed. After recovery of the mobile phone and SIM Card from the resident of the petitioner/A.5 further Forensic Examination of the same has to be done and on that basis further witnesses/victims have to be examined. Therefore, the petitioner cannot be enlarged on bail even at this stage of the proceedings.

6.In view of facts mentioned above, this Court is not inclined to grant bail to this petitioner. Hence, this Criminal Original Petition is dismissed.

-sd/-
13/07/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE CHIEF JUDICIAL MAGISTRATE
COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE SPECIAL PUBLIC PROSECUTOR
FOR CBI CASES, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
CBI, SCB, CHENNAI.

CC to M/S.P.KALIMUTHU Advocate on payment of necessary charges

CRL OP.5791/2020

Date :13/07/2020

cs 21/08/2020