

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.05.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.7413 of 2020

Sathish Vinothkumar

.... Petitioner

Vs.

State rep. by
The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai.
(Crime No.7/2020)

....Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C., to
enlarge the petitioner on bail in Crime No.7 of 2020 on the file of the
respondent police.

For Petitioner : Mr.Sunder Mohan

For Respondent : Mr.S.Karthikeyan
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 12.03.2020 for the offence under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 in Crime No.7 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant, who is studying in 12th standard, was continuously harassed by the petitioner, who was the neighbour. On 11.03.2020 while the defacto complainant's daughter went to the shop, the petitioner wontedly touches the private parts of the defacto complainant's daughter. She gave the complaint on 12.03.2020 after her daughter completed the exam.

3. The learned counsel for the petitioner submitted that the petitioner and the defacto complainant are relatives. There exists a dispute between the petitioner and the defacto complainant with regard to property. The petitioner had never misbehaved with the defacto complainant's daughter as alleged.

4. The learned counsel for the petitioner further submitted that the alleged offence took place on 11.03.2020 at about 4.30 p.m , the petitioner and the defacto complainant were living a row house area. Since, the elders in the street will always sit and talk in open area of the place, the petitioner could not have committed the offence as alleged by the complaint. Further, the FIR was lodged on the next day of the alleged occurrence at 6.30 p.m, which is much delay. The victim is aged about 17 years, therefore, the statement that she had given a report to child help line is also false. The defacto complainant shouted against the petitioner only to seek attention from others.

5. According to the defacto complainant, the act of petitioner exhibiting anxiety have been taken place for past two years and that day in public road is highly improbable.

6. The learned Additional Public Prosecutor further submitted that the examination of witnesses under Section 164 Cr.P.C is yet to be recorded. Hence, he vehemently opposed for grant of bail to the petitioner.

7. Taking into consideration the fact that though it is stated that the petitioner is harassing the victim for the past two years, the complaint came to be lodged only on the next day of the alleged occurrence. Further, the petitioner is aged about 31 years and he is the neighbour of the defacto complainant. Considering all the above facts and also the fact that the period of incarceration by the petitioner is more than 76 days, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

a) the petitioners shall execute his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison.

b) thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, failing which the bail granted by this Court shall stand dismissed.

[c] 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.

[d] the petitioner shall report before the respondent police as and when required for interrogation.

[e] the petitioner shall appear before the trial Court during every hearing date without fail.

[f] the petitioner shall not tamper with evidence or witness either

during investigation or trial.

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dh

[g] the petitioner shall not abscond either during investigation or trial.

[h] 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 petitioners 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].

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

27.05.2020

Internet: Yes/No

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To

1.The The Inspector of Police,
W-19, All Women Police Station,
Adyar, Chennai.

2.The Superintendent,
Puzhal Prison, Chennai.

3.The Public Prosecutor,
High Court, Madras.

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