

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.05.2020

CORAM

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.Nos.7476 & 7529 of 2020

J.Vinoth,
S/o.Joseph Nixon,
No.1/720, Aringar Anna Nagar
7th Street, Neelangarai,
Chennai 600 115 ... Petitioner in CrI.OP.No.7476 of 2020

Maharaja Jeyapandi,
S/o.Jeyapandi,
No.1/354, Aringar Anna Nagar,
3rd Street, Neelangarai,
Chennai 600 041 ... Petitioner in CrI.OP.No.7529 of 2020

सत्यमेव जयते
Vs.

State Rep. by
The Inspector of Police,
W19 – All Women Police Station,
Adyar,
Chennai
(case initially registered with
J2-Adyar Police Station, Chennai)
Cr. No.21 of 2020

... Respondent in both CrI.O.P.s

Common Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioners on bail pending investigation in Crime No.21 of 2020 on the file of the respondent police.

For Petitioner : Mr.L.S.M.Hasan Fizal
in both Crl.O.P.s

For Respondent
in both Crl.O.P.s : Mr.M.Mohammed Riyaz

Additional Public Prosecutor

COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 01.03.2020 for the offence punishable under Sections 363 of IPC, 1860 r/w Sections 4 & 10 of the Protection of Children from Sexual Offences Act, 2012 in Crime No.21 of 2020 on the file of the respondent police, seek bail.

2. The case of the prosecution is that the victim girl was missing from her place of work of domestic help with the defacto complainant. Thereafter, the petitioners along with the first accused committed sexual assault on the victim girl. Hence, this complaint.

3. The learned counsel appearing for the petitioners would submit that the petitioners are arrayed as A2 and A3. Even according to the case of

the prosecution, the first accused had sexual assault on the victim girl and as far as the petitioners are concerned, they also travelled along with the first accused in the car. The petitioners are being the friends of the first accused, they simply accompanied the first accused in searching for a job for the victim by the first accused. He further submitted that the petitioners were arrested and remanded to judicial custody on 01.03.2020. Hence, he seeks bail for the petitioners.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that there are totally three accused, in which the petitioners are arrayed as A2 and A3, and they are friends of the first accused. All the accused persons have taken the victim girl in a car, and the first accused committed sexual assault on the victim girl, and A2 and A3, who are the petitioners herein have travelled along with the first accused and helped the first accused. He further submitted that as per the statement recorded under Section 164 Cr.P.C., the victim girl went along with the accused persons, and the first accused had sexually assaulted the victim and the petitioners, namely A2 and A3 touched her. Hence, he opposed for grant of bail to the petitioners.

5. It is seen that there are totally three accused, in which the petitioners are arrayed as A2 and A3. Even according to the case of the prosecution, the first accused had taken the victim girl to search job for her, and the petitioners accompanied the first accused and the victim girl in the car, where the first accused had sexual assault on the victim girl. As far as the petitioners are concerned, they also travelled along with the first accused and they touched the victim. The statement of the victim girl recorded under Section 164 of Cr.P.C. reveals that the first accused only sexually assaulted the victim girl. As far as the petitioners are concerned, they also accompanied along with the first accused and they have touched her.

6. Considering the facts and circumstances of the case and also the period of incarceration by the petitioners from the date of their arrest, namely 01.03.2020, this Court is inclined to grant bail to the petitioners, subject to the following conditions :

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

(b) thereafter, each of the petitioners shall execute two blood related sureties for a sum of Rs.10,000/-(Rupees ten thousand only) each, before the

concerned Magistrate on or before 08.06.2020, failing which the bail granted by this Court shall stand dismissed automatically.

(c) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

(d) the petitioners shall report before the respondent police daily at 10.30 a.m. and 05.30 p.m. from 01.06.2020 until further orders.

(e) the petitioners shall not abscond either during investigation or trial.

(f) the petitioners shall not tamper with evidence or witness either during investigation or trial.

(g) on breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners 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]**.

(h) If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

lok

7. With the above directions, these Criminal Original Petitions are ordered.

13.05.2020

Index : Yes/No

Internet : Yes/No

lok

To

1. The Special Court For Exclusive Trial of Cases
under POCSO Act, Chennai

2. The Inspector of Police,
W19 – All Women Police Station,
Adyar,
Chennai

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent,
Central Jail, Puzhal

