

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.7963 of 2020

Vasanthan

... Petitioner

Vs.

State rep.by

... Respondent

The Inspector of Police,
Ramanatham Police Station,
Cuddalore District.

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioner on bail in Crime No.52 of 2020 on the file of the Inspector of Police, Ramanatham Police Station, Cuddalore District.

For Petitioner : Mr.R.Muthukumar

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 18.02.2020 for the offences punishable under Sections 341, 354 (D) of IPC and r/w Sections 11 (1) and 12 of Protection of Children from Sexual Offence Act, 2012 (POCSO Act), in Crime No.52 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the de-facto complainant's daughter is deaf and she is aged 13 years and the petitioner gave love torture to her. On 13.02.2020 while the de-facto complainant went to the School, the petitioner has restrained her and expressed his love and forced her to marry. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is the relative of the de-facto complainant, he was running a sound service and there was dispute between the petitioner's family and the de-facto complainant's family. He would further submit that the petitioner had never forced her to marry or expressed his love with the victim who is the 8th standard School going girl and the petitioner has been falsely implicated in this case. He would also submit that the petitioner is in confinement for more than 100 days and the investigation is almost over. He would further submit that the incident had happened on 13.02.2020 and the

de-facto complainant lodged a complaint only on 18.02.2020, after the delay of five days, for which, no reason has been given which would clearly shows, the petitioner has been falsely implicated in this case. Therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the victim girl is deaf, aged 13 years and studying 8th standard and the petitioner gave love torture to her. He would also submit that on 13.02.2020, the petitioner has restrained her and expressed his love and forced her to marry and she informed her parents and after long deliberation on 18.02.2020 complaint came to be filed. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the petitioner is in judicial custody from 18.02.2020 and the investigation is almost over, and further taking taking into consideration of the fact that the petitioner and the de-facto complainant are relatives, the victim being deaf and what was communicated and what was expressed cannot be conclusively stated against the petitioner. In view of the same, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, before the Superintendent of the concerned prison in which the petitioner has been confined on his release;

(b) 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 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 petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner 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 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]**.

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

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-
28/05/2020

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 SPECIAL COURT FOR POSCO,
CUDDALORE.

2 THE SUPERINTENDENT, CENTRAL PRISON,
CUDDALORE.

3 THE INSPECTORE OF POLICE
RAMANATHAN POLICE STATION,
CUDDALORE DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. R.MUTHUKUMAR Advocate on payment of necessary charges

CRL OP.7963/2020

Date :28/05/2020

TA-19/08/2020