

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.06.2020

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.8042 of 2020

Prakash M/20 yrs.

S/o. Velu,

25/24, YMCA Kuppam,

3rd Street, Tondiarpet,

Chennai-81.

... Petitioner

/Vs/

The Inspector of Police,

W-15 Royapuram Police Station,

Chennai.

Crime No.359 of 2020

... Respondent

PRAYER: This Criminal Original Petition filed under section 439 of Cr.P.C., seeking to enlarge the petitioner on bail in Crime No.359 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.J.Nissar Ahmed

For Respondents : Mr.K.Prabakar
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 21.04.2020 for the offence punishable under Section girl missing @ 4 of POCSO Act 2012 and 363 of IPC in Crime No.359 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had kidnapped the minor girl who is aged about 17 years and committed aggravated sexual assault on her. Initially the case was registered under “Girl Missing” and after enquiry, the sections were altered into Section 4 of POCSO Act 2012 and 363 of IPC.

3. The learned Counsel for the petitioner submitted that it is a case of love affair. Since, the parents of the victim had compelled her to marry some other person against her choice, she herself eloped with the petitioner. Thereafter, on coming to know about the registration of the case, he himself surrendered before the police. He further submitted that the petitioner has been suffering incarceration from 20.04.2020. Hence he prayed for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor submitted that the petitioner is aged 19 years and the victim girl is aged 17 years. Though, it is a case of love affair, the petitioner has committed aggravated sexual assault on the victim girl and that the medical examination has been conducted on both of them. Hence, he opposed for the grant of bail to the petitioner.

5. Considering the above facts and circumstances and the period of

incarceration undergone by the petitioner from 20.04.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined on his release;

(b) Thereafter, the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, out of which, one shall be the mother or father of the petitioner**, before the concerned Magistrate on or before 05.07.2020, 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 report before the respondent police as and when required for interrogation.

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

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

(g) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(h) on breach of any of the aforesaid conditions, the learned Judicial 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];

(i) 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.

05.06.2020

Index : Yes/No
Internet : Yes/No
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To

1. The Special Court for Exclusive Trial of Cases under Pocso Act, Chennai.
2. The Inspector of Police,
W-15 Royapuram Police Station,
Chennai.
3. The Public Prosecutor,
High Court of Madras.
4. The Superintendent
Puzhal Jail.

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A.D.JAGADISH CHANDIRA,J.

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