

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 8521 of 2020

Selvakumar

... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
Thanipadi Police Station,
Tiruvannamalai District.
(Crime No.1085 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in pending investigation in Crime No.1085 of 2020, on the file of the Inspector of Police, Thanipadi Police Station, Tiruvannamalai District.

For Petitioner : Mr.V.Prakash Babu

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl.Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 11.05.2020 for the offences punishable under Sections 3(a), 4 of POCSO Act, in Crime No. 1085 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant viz., Deepika is that on 10.05.2020, while she was looking after her goats in her farm land, the petitioner/accused, who is her cousin had come to her lands and forcibly taken her to a secluded place and committed sexual intercourse with her and thereafter escaped from the place of occurrence. Hence the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in the case on false allegations. He would submit that the petitioner and the defacto complainant are close relatives. In order to compel the petitioner to get married to the victim, a false complaint has been registered against him and based on the complaint, the petitioner was

arrested on 11.05.2020. He submitted that the statement has been recorded from the victim under Section 164 Cr.P.C. wherein, she had stated that the petitioner and his parents have asked the parents of the defacto complainant to give her in marriage to the petitioner and there was a dispute between the family.

4. The learned Government Advocate appearing for the respondent would vehemently oppose by stating that the petitioner and the defacto complainant are relatives. He submit that the petitioner had committed sexual assault on the victim, who is a minor. Hence, he opposed to grant bail to the petitioner.

5. At this juncture, the learned counsel appearing for the petitioner would submit that the complaint is absolutely a false one and the parents of the defacto complainant presuming that marriage arrangements were made for the petitioner with someone else and had given a false complaint. He would further submit that the petitioner was in custody for more than 55 days.

6. Heard both sides and perused the materials placed on record.

7. Considering the above facts and circumstances of the case and considering the incarceration more than 55 days by the petitioner, 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 and thereafter on his release;

(b) The petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the Special Court for trial of cases under POCSO Act, within two weeks from the date of receipt of a copy of this order or after lifting of the lockdown and the commencement of the Court's normal functioning, whichever is earlier 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 daily at 10.30 a.m., for a period of two weeks and thereafter, 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 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];

(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.

-sd/-

10/07/2020

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 SPECIAL COURT FOR
TRIAL OF CASES UNDER POCSO ACT,
TIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THANIPADI POLICE STATION,
TIRUVANNAMALAI DISTRICT.

CC to M/S.V.PRAKASH BABU Advocate on payment of necessary charges

CRL OP.8521/2020

Date :10/07/2020