

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2020

CORAM

THE HONOURABLE MR.JUSTICE. M.NIRMAL KUMAR

CrI.O.P.No.9056 of 2020

E.Kavinbala

...Petitioner

Vs.

State Rep By
Inspector of Police,
All Woman Police Station,
Thiruvvarur.(Crime No.8 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail pending investigation in Crime No.8 of 2020 on the file of the respondent police.

For Petitioner : Mr.V.Johnson Yuvaraj

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

The petitioner was arrested and remanded to judicial custody on 22.05.2020 for the offence punishable under Section 354(C) of r/w Section 12 of Protection of Children from Sexual Offence Act, 2012, in Crime No.8 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 21.05.2020 at 04.30 P.M. the victim who is a minor girl aged about 16 years was taking bath, the victim house was adjacent to the play ground. The petitioner had gone to the play ground for playing cricket at that time, the ball went out the compound wall, near the victim girl taking bath, the petitioner took video of the same by using his mobile phone and the mobile was seized by the respondent police. Hence, the complaint was registered.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a B.E., graduate and he had gone to the school play ground to play cricket at that time, the ball went out side the compound wall. The petitioner climbed the compound wall to retrieve the ball which was wrongly construed that the petitioner committed the above offence and he has been falsely implicated in this case. He would further submit that the mobile phone already seized. Further, he would submit that the petitioner is in judicial custody from 22.05.2020 and seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that 21.05.2020 at 04.30 P.M. the victim who is a minor girl aged about 16 years was taking bath, the victim house was adjacent to the play ground. The petitioner had gone to the play ground and was playing cricket at that time, the ball went out side of the compound wall nearby the victim girl was taking bath, the petitioner took video of the same by using his mobilephone and the mobile was seized by the respondent police. He would further submit that the forensic report awaited. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioner in FIR and the petitioner young B.E graduate seeking job and further the mobile already seized and also taking note of the fact that the petitioner is in judicial custody from 22.05.2020, 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) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate within a period of 15 days from the date of lifting of lockdown and commencement of regular functioning of Court below, 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 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/-

19/06/2020

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 ADDITIONAL SESSIONS JUDGE,
FAST TRACK MAHILA COURT, THIRUVARUR

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVARUR

4 THE SUPERINTENDENT,
CENTRAL JAIL, TRICHY

CC to M/S. V. JOHNSON YUVARAJ Advocate on payment of necessary charges

CRL OP.9056/2020

Date :19/06/2020

RVR 29/09/2020

WEB COPY