

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.07.2020

CORAM:

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

CrI.O.P.No.9668 of 2020

1.Kannan

2.Iyyappan

... Petitioner

Vs.

State Rep. by

The Inspector of Police
Kolathur Police Station,
Salem District.

Crime No.376 of 2020

... Respondent

PRAYER: This Criminal Original Petition filed under section 439 of Cr.P.C., seeking to enlarge the petitioner on bail in respect of the above Crime No.376 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.M.Essakiappan

For Respondent : Mr.K.Prabakar

Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 14.06.2020 in Crime No.376 of 2020 on the file of the respondent police for the offences punishable under Section 363 & 366 of IPC, Section 5(1) of POCSO Act and Section 9 of Prohibition of Child Marriage Act, seeks bail.

2. The case of the prosecution as per the defacto complainant, who is the mother of the victim girl is that her child was found missing from her house on 11.06.2020. During investigation, it was found that one Vignesh had abducted her. On finding that the victim was a minor girl, the case was altered to offence under Section 363 & 366 of IPC, Section 5(1) of POCSO Act and Section 9 of Prohibition of Child Marriage Act, seeks bail.

3. The learned counsel for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case, since they happen to be brother in law and the brother of one Vignesh. He would submit that the said Vignesh was having love affair with the daughter of the defacto complainant. The parents had opposed the love affair and the victim had eloped with Vignesh and they got married at Thibbampatti. Since A1 has married the victim, the petitioners have been implicated in this case as if they abetted him and they were arrested on 11.06.2020 and remanded to custody on 14.06.2020. The learned counsel would submit that they have nothing to do with the alleged offence and that they are inside in custody from 14.06.2020.

4. The learned Additional Public Prosecutor would submit that the petitioners are respectively brother-in-law and brother of the said Vignesh who has abducted the minor daughter of the defacto complainant. He would submit that the victim has been secured and A1 was also arrested.

5. Taking into consideration the facts and circumstances of the case and the submissions made by the Counsels and the petitioner is inside in custody from 14.06.2020, 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 and thereafter on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the Special Court for Exclusive Trial of Cases under POCSO Act, Salem., within 15 days from the date of lifting of the lock down and the commencement of the Court's normal functioning, 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 on every day at 10.30 a.m., for a period of two weeks, 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/-
01/07/2020

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
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
SALEM.

2 THE SUPERINTENDENT,
SUB-JAIL, ATTUR.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
SALEM DISTRICT.

CC to M/S. A.M.ESAKKIAPPAN Advocate on payment of necessary charges

CRL OP.9668/2020

Date :01/07/2020