

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.07.2020

CORAM :

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

Cr1.O.P.No.10311 of 2020

Kumaravel,
S/o.Gopalakrishnan,
Main Road, Sendhimangalam,
Kottur, Mannargudi Taluk,
Thiruvarur District.

... Petitioner

- Vs. -

State rep. by
Inspector of Police,
All Women Police Station,
Thiruthuraipoondi,
Thiruvarur District.
Crime.No.08/2020.

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, to enlarge the petitioner on bail in Crime No.08 of 2020 on the file of the respondent police.

For Petitioner : Mr.Swami Subramanian

For Respondent : Mr.T.Shanmugarajeswaran,
Government Advocate (Cr1. Side)

O R D E R

(The case has been heard through video conference)

The Petitioner, who was arrested on 22.06.2020, for the offence punishable under Section 376 of IPC, in Crime No.08 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner, who is a married man, committed rape on the victim girl, who is a deaf and dumb girl.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and a false complaint has been given against him in order to extract money from him. He would submit that a reading of FIR would clearly show that there was a consensual relationship between the victim girl and the petitioner, who are neighbors and that in the reading of the FIR, the de facto complainant had stated that on 05.12.2019, she had seen the petitioner coming out of her house and again during the same month,

the de facto complainant had seen the petitioner lying on her daughter and thereafter, on seeing her, the petitioner ran away. While so, once again during the month of March, 2020, the de facto complainant gone out of her house and when she came back she had seen the petitioner having physical relationship with her daughter and she had enquired her daughter, for which, by sign language, she told that the petitioner had sexual intercourse with her. He would submit that though the allegations are made in respect of the incidents that had happened during December, 2019 and March, 2020, the complaint has been given on 16.06.2020 and the petitioner was arrested only on 17.06.2020 and he is custody for more than 40 days. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing on behalf of the respondent would submit that the petitioner committed rape on the daughter of the de facto complainant, aged about 21 years, who is deaf and dumb. He would submit that the statement of the victim girl under Section 161 of Cr.P.C has been recorded and that the investigation has also been completed in this case.

5. Heard both sides and perused the FIR.

6. Taking into consideration of the facts and circumstances of the case, 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 learned Judicial Magistrate, Thiruthuraipoondi, within 15 days from the date of lifting of the lockdown or 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 every day at 10.30.a.m for a period of two(2) weeks and thereafter, every Monday at 10.30.a.m until further orders;

(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.

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

-sd/-
29/07/2020

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 JUDICIAL MAGISTRATE,
THIRUTHURAIPOONDI

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUTHURAIPOONDI,
THIRUVARUR DISTRICT.

CC to M/S. SWAMI SUBRAMANIAN Advocate on payment of necessary charges

CRL OP.10311/2020

Date :29/07/2020

RD 27/08/2020