

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10321 of 2020

Balaji

... Petitioner

/vs/

State

The Inspector of Police,
Chengam Police Station,
Tiruvannamalai District.
Cr. No.1610 of 2020

... Respondent

Prayer : This Criminal Original Petition has been filed under Section 439 of the Code of Criminal Procedure to enlarge the petitioner on bail in Crime No. 1610 of 2020 on the file of the respondent police.

For Petitioner : Mr.K. Narayanan

For respondent : Mr.Shunmugarajeswaran,
Govt. Advocate (CrI. Side)

ORDER

(This case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 10.06.2020 for the offences punishable under Sections Girl Missing @ 366(A) IPC and 4, 5(1), 6 and 17 of POCSO Act 2012 and Section 9 of the Prohibition of Child Marriage Act 2006 and Section 366, 366(A), 376 IPC in Crime No. 1610 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant's minor daughter Divya was found missing on 08.06.2020 and based on such complaint, a case was registered under the caption " Girl missing". Later on enquiry, it was found that the victim was abducted by the first accused and he had taken her and married her and thereafter, he had sexually assaulted on her. The allegation against the petitioner is that he assisted the main accused(A1) .

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. This petitioner and the first accused are friends. Since the first accused and the petitioner loved each other, the first accused abducted the defacto complainant and they got married

on some other place. This petitioner is no way connected with the offence. He would further submit that now, the victim girl has been secured. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that at the relevant point of time, the petitioner assisted the main accused to abduct the daughter of the defacto complainant and helped them to get married. The first accused had aggravated sexual assault on the victim girl. Now, investigation is pending. Statement under Section 164 CRP has been recorded and the medication examination of the victim girl and the first accused has been completed. Hence, he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case, and also the fact that medical examination of the first accused and the defacto complainant is over and also the statement under Section 164 Cr.P.C. has been recorded, 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, Chengam, within a period of two weeks or commencement of Courts 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 surtey bond and the learned Magistrate may obtain a copy of their Aadhar Card of 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 SCW5560.

(i) If the accused thereafter absconds, a fresh FIR can be registered under Section 229 A IPC.

6. With the above directions, the Criminal Original Petition is ordered.

-sd/-
09/07/2020

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,
CHENGAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
CHENGAM POLICE STATION,
TIRUVANNAMALAI DISTRICT

CC to M/S. K.NARAYANAN Advocate on payment of necessary charges

CRL OP.10321/2020

Date :09/07/2020

cs 07/08/2020