

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.07.2020

CORAM :

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

Crl.O.P.No.10410 of 2020

George Leo Bharath

... Petitioner

Vs.

State Rep. by
The Inspector of Police
Thanipadi Police Station
Tiruvannamalai District
(Cr.No.1175 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1175 of 2020 pending on the file of the respondent police.

For Petitioner : Mrs.S.P.Arthi

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

ORDER

(These cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 03.05.2020 for the offence punishable under Sections 3(a), 4, 5(1) and 6 of POSCO Act, in Crime No.166 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant Arbuthamary, her daughter Divya aged 15 years was studying 10th standard at Carmel Higher Secondary School, Elaiyankanni and that the accused was also studying in the same school and that they have become friendly. Pursuant to which, the accused had taken her daughter to Triuvannamalai and committed penetrative sexual assault on her and thereafter, had taken photograph along with her and later threatening to show the photos and continued to have sexual intercourse with her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and false complaint has been given. He would submit that the petitioner and the victim girl are studying in the same school. They were having love affair. The mother of the victim had threatened the petitioner to severe relationship with her daughter when he had refused a false complaint has been given. He

would further submit that the petitioner was arrested on 14.05.2020 and he is inside for more than two months. He would further submit that bail may be granted considering the age of the petitioner.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner and daughter of the defacto complainant are school classmates and the petitioner had and induce the victim girl who is a minor and committed penetrative sexual assault. He had taken photos with her and later threatening to show the photos to others had continued to have sexual intercourse with her. He would further submit that medical examination in respect of the petitioner and the victim girl is over and the statement of the victim girl under Section 164 of Cr.P.C has also been recorded.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, period of incarceration and the age of the accused, 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 her 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 learned Special Judge for Trial under POSCO Act, Tiruvannamalai, within 15 days from the date of 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 three 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

(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/-
16/07/2020

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 UNDER POSCO 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. S.P. ARTHI Advocate on payment of necessary charges

CRL OP.10410/2020

Date :16/07/2020

TA-13/08/2020

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