

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.07.2020

CORAM :

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

Crl.O.P.No.10573 of 2020

K.Ayyappan

... Petitioner

Vs.

State rep. by its
Inspector of Police
ALL WOMEN Police Station
NANILAM
Nagapattinam District
(Crime No.05 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.05 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.J.Jawahar

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 26.06.2020 for the offences punishable under Section 6 r/w 5(1) of POCSO Act, 2012, in Crime No.05 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Nedumaran is that, he had found his minor daughter sick and depressed and when his wife had enquired his daughter, she had informed that the accused, on the promise of marrying her, had committed penetrative sexual assault on her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is having love affair with the daughter of the defacto complainant. He would further submit that the defacto complainant and the petitioner belong to the same community and that the petitioner is also ready to marry the victim girl. Since the petitioner is not having proper job, a false complaint has been given by the victim's father. He would further submit that the petitioner is even prepared to cooperate with the respondents for their further investigation.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner is aged about 21 years old, committed penetrative sexual assault to the daughter of the defacto complainant, who is aged about 17 years. He would further submit that the medical examination of the victim girl has been conducted and the medical examination of the petitioner is yet to be conducted.

5.At this juncture, learned counsel for the petitioner would submit that the petitioner is ready to abide by any stringent conditions and prepared to appear before the respondent police every day and also agrees to go before the medical authorities for medical examination.

6.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and also the fact that the petitioner is in custody from 26.06.2020, 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 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) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Additional Sessions Judge, Fast Track Mahila Court, Tiruvarur, within a period of two weeks after lifting of 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 daily at 10.30 a.m. for a period of three weeks and thereafter on every Monday at 10.30 a.m. until further orders. Meanwhile, the respondent police shall also subject the petitioner for medical examination.

(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/-
15/07/2020

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 ADDITIONAL SESSIONS JUDGE,
FAST TRACK MAHILA COURT, TIRUVARUR.

2 THE OFFICER INCHARGE
DISTRICT JAIL, NAGAPATTINAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NANILAM, NAGAPATTINAM DISTRICT.

CC to M/S. J.JAWAHAR Advocate on payment of necessary charges

CRL OP.10573/2020

Date :15/07/2020

cs 17/08/2020