

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.07.2020

CORAM :

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

Crl.O.P.No.10636 of 2020

1. Don Bosco
2. Anthonyammal

... Petitioners

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 petitioners, who were arrested and remanded to judicial custody on 12.06.2020 for the offence punishable under Sections 3 (a), 4, 5(1) and 6 of POSCO Act, in Crime No.1175 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 petitioners would submit that the son of the petitioners had love affair with the daughter of the defacto complainant and that hence the petitioners being the parents of A1 have also been falsely implicated in this case. He would submit that A1 was already granted bail and the

petitioners herein are in judicial custody from 12.6.2020. He would further submit that the petitioners are only parents of A1 and they have nothing to do with the offence, whereas a false averment is made as if the petitioners have taken cash and jewels from the victim girl..

4.The learned Government Advocate (Criminal Side) would submit that the son of the petitioners had induced the victim girl who is a minor and committed penetrative sexual assault and the petitioners have taken jewels and cash from the victim.

5.Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsels, period of incarceration, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on executing their 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 petitioners 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 petitioners shall not commit any offences of similar nature;

(f) the petitioners shall not abscond either during investigation or trial;

(g) the petitioners 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/-
17/07/2020

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE INSPECTOR OF POLICE,
THANIPADI POLICE STATION,
TIRUVANAMALAI DISTRICT.

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

CRL OP.10636/2020

सत्यमेव जयते

Date :17/07/2020

TA-25/08/2020

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