

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.10932 of 2020

Harikannan

... Petitioner

Vs.

State rep. by

The Inspector of Police,
Kizkodungalore Police Station,
Tirvannamalai District.
Cr. No.977 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.977 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Sugendran

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (CrI. 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 14.06.2020 for the offences punishable under Section 366, 506(i) IPC r/w. Section 4 & 8 of POSCO Act 2012 in Crime No.977 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner had abducted the victim girl who is aged about 17 years and committed penetrative sexual assault on her. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He would further submit that the case, where the petitioner and the victim loved each other and coming to know of the love affair, the parents of the victim objected to the love affair, since the victim was in the verge of attaining majority the parents of the victim had forced her to accept marriage with somebody else, the victim did not like it eloped from home and come to the house of the petitioner. Coming to know of the registration of the case, the petitioner and the victim girl surrendered before the Madurantagam Police Station and later, they have been handed over to the respondent police. He would further submit that the

statement has been recorded from the victim girl where, she has stated that she had on her own volition gone with him and the major part of the investigation is over.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner had induced the victim girl and kidnapped her and committed penetrative sexual assaulted on her. Hence, he vehemently opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and circumstance of this case and also made by the submissions of the learned counsels and also considering the period of incarceration undergone by the petitioner from 14.06.2020, 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 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 Special Court for Trial of cases under POSCO Act, Tiruvannamalai, **within 15 days from the date of lifting of the lock down 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 everyday 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 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/-
22/07/2020

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 OF CASES UNDER POSCO ACT,
TIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KIZKODUNGALORE POLICE STATION,
TIRUVANNAMALAI DISTRICT.

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

CRL OP.10932/2020

Date :22/07/2020

MK:19/08/2020