

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.10954 of 2020

Vignesh

... Petitioner

Vs.

The State, represented by
The Inspector of Police,
Kolathur Police Station,
Salem District.
Cr.No.376 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., praying to grant bail to the petitioner in Crime No.376 of 2020 on the file of the Respondent police.

For Petitioner : Mr.A.M.Esakkiappan

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 14.06.2020 for the offences punishable under Section 363 & 366 IPC, Section 5(1) of POCSO Act and Section 9 of Prohibition of Child Marriage Act, in Crime No.376 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, who is the mother of the victim girl is that her child was found missing from her house on 11.06.2020. During investigation, it was found that one Vignesh/petitioner herein, had abducted her and on finding that the victim was a minor girl, the case was altered to offence under Sections 363 & 366 of IPC, Section 5(1) of POCSO Act and Section 9 of Prohibition of Child Marriage Act, seeks bail.

3.The learned counsel for the petitioner would submit that the petitioner was having love affair with the daughter of the defacto complainant. Since, the parents of the victim girl had opposed their love, the victim had eloped with the petitioner/Vignesh and they got married at Thibbampatti. He would further submit that the co-accused has been granted bail by this Court in Crl.O.P.No.9668 of 2020 dated 01.07.2020. Hence, he seeks to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that the victim girl is aged about 16 years. The petitioner/A1, had abducted the victim girl on the pretext of marriage and had sexual intercourse with her and thereafter he married her. He would submit that the statement of the victim girl has been recorded and the medical report is also received. However, he opposed to grant bail to the petitioner.

5. Taking into consideration of the facts and circumstance of this case and the fact that the co-accused has been granted bail by this Court 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 Exclusive Trial of cases under POCSO Act, Salem, **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 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 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/-
23/07/2020

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 EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
SALEM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
SALEM DISTRICT.

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

CRL OP.10954/2020

Date :23/07/2020

MK:20/08/2020