

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2020

CORAM :

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

CrI.O.P.No.11808 of 2020

J.Thiruniraiselvan

... Petitioner

Vs.

The State Rep. by  
The Ins of Police,  
All Women Police Station  
Mannargudi, Thiruvarur District.  
Crime No.6 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.6 of 2020 on the file of the Inspector of Police, All Women Police Station, Mannargudi, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian

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 29.06.2020 for the offence punishable under Section 366(A) of IPC and Section 5(1), 6 of Protection of Children from Sexual offences Act 2012, in Crime No.6 of 2020 seeks bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner kidnapped her grand daughter and committed penetrative sexual assault. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the victim belong to the same community and they were in love with each other. Since, it was objected by the grand mother of the victim girl who is at the verge of attaining majority, she eloped with the petitioner on her own volition. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C. and that the victim girl has also not supported the case of the prosecution. He would also submit that the medical examination in respect of the victim girl and the petitioner have been completed and the major part of investigation is also over and that the petitioner has been in judicial custody from 29.06.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (CrI. Side) would submit that the the petitioner who is aged about 26 years had kidnapped the minor girl who is aged 17 years and committed sexual assault on her. He would submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C. and the victim girl has not supported the case of the prosecution. He would further submit that the investigation is completed and the final report has been filed and it is yet to be taken on file.

5. Heard both sides and perused the statement of the victim girl recorded under Section 164 Cr.P.C.

6.Taking into consideration the facts and circumstances and the submissions made by the learned counsels and the fact that the investigation has been completed and the final report has been filed and considering the period of incarceration undergone by the petitioner, 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 condition to execute 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 Judicial Magistrate-I, Mannargudi, Thiruvarur District. 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 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-

12/08/2020

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 JUDICIAL MAGISTRATE,  
NO.I, MANNARGUDI, THIRUVARUR DISTRICT.

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,  
ALL WOMEN POLICE STATION,  
MANNARGUDI, THIRUVARUR DISTRICT.

4 THE SUPERINTENDENT,  
CENTRAL PRISON, THIRUCHIRAPALLI

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

WEB COPY

CRL OP.11808/2020

Date :12/08/2020

RVR 15/09/2020