

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.07.2020

CORAM :

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

Crl.O.P.No.11437 of 2020

Santhosh

... Petitioner

Vs.

State rep. by its  
The Inspector of Police  
Tirukkalar Police Station  
Thiruvarur District.  
(Crime No.462 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to grant bail to the petitioner pending investigation in Crime No.462 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Sekar

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 28.06.2020 for the alleged offences punishable under sections 366(A) IPC and subsequently altered into section 5(1), 6 of Protection of Child from Sexual Offence Act 2012 in Crime No. 462 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Ramakrishnan is that his minor daughter Subalakshmi aged about 17 years was having love affair with one Santhosh/ the petitioner herein and the family members had advised her to sever the relationship with the petitioner. While so, on 25.06.2020 at about 6 p.m., his daughter was found missing, suspecting that the petitioner had kidnapped his daughter, a complaint was given to the respondent police and it was originally registered under section 366 (A) IPC and thereafter altered into section 5(1), 6 of POCSO Act and the girl was secured by the respondent police.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the daughter of the defacto complainant were in love with each other. The victim/daughter of the defacto complainant was on the verge of attaining majority and that she had left from her house and joined with the petitioner and the petitioner did not understand the consequences has eloped with her. He would further submit that both the family members are taking steps to get the petitioner married with the victim girl. He would also submit that investigation is over and the statement is also recorded from the victim girl in which she had stated that she eloped with the petitioner on her own volition. Hence, he seeks for grant of bail to the petitioner.

4.The learned Government Advocate (Criminal Side) would submit that the petitioner had kidnapped the minor daughter of the defacto complainant and committed repeated penetrative sexual assault on her. He would submit that the victim is aged about 17 years and the petitioner is aged about 19 years. However, he vehemently opposed to grant bail to the petitioner.

5.Taking into consideration of the facts and circumstances and considering the submissions made by the learned counsels, 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) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned 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 everyday at 10.30 a.m., for a period 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.

6. With the above directions, this Criminal Original Petition is ordered.

-sd/-  
31/07/2020

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 FAST TRACK MAHILA COURT  
TIRUVARUR.

2 THE OFFICER INCHARGE  
SUB JAIL, NANNILAM.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
TIRUKKALAR POLICE STATION,  
TIRUVARUR DISTRICT.

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

CRL OP.11437/2020

Date :31/07/2020