

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2020

CORAM :

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

Crl.O.P.No.11579 of 2020

Naveenkumar

.... Petitioner

-Vs-

The State Represented by
Inspector of Police,
All Women Police Station,
AMMAPET, Salem District.
(Crime No. 12 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.12 of 2020 on the file of the respondent police.

For Petitioner : Mr.W.Cameyles Gandhi

For Respondent : Mr.T.Shanmugarajeswaran,
Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested on 17.06.2020, for the offences punishable under Sections Girl Missing @ 363, 366 of IPC, Sec.5(1) r/w.6 of POCSO Act 2012 and also U/S. 16 & 17 of POCSO Act, in Crime No.12 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant Shanthi Babu is that her minor daughter was found missing. Based on the complaint, the case was originally registered under the caption 'for girl missing' and later, during the course of investigation, it came to light that the petitioner had kidnapped the victim girl and committed penetrative sexual assault

3.The learned counsel for the petitioner would submit that the petitioner and the victim girl, who is aged about 17 years loved each other. He would submit that since the de facto complainant wanted to give her in marriage to someone else against her wish and thereby the victim girl eloped from the house and came along with the petitioner. After registration of the case, the petitioner and the victim girl surrendered before the respondent police and that a false case has been foisted against the petitioner. He would further submit that the the statement recorded under Section 164 Cr.P.C from the victim, wherein she has stated that she, on her own volition, had gone to

the petitioner's house and compelled him to marry her stating that if he does not marry her, she will commit suicide.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner kidnapped the minor daughter of the de facto complainant and committed sexual assault on her. He would submit that the statement under Section 164 Cr.P.C has been recorded from the victim girl.

5. Heard both sides. Perused the materials available on record.

6. Taking into consideration of the facts and circumstances of the case, 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) each, before the Superintendent of the concerned prison, in which the petitioner have 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 Special Court Exclusive Trial of Cases under POCSO Act, Salem, within 15 days from the date of lifting of the 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 every day at 10.30.am 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.

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

-sd/-

04/08/2020

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 SESSIONS JUDGE,
SPECIAL COURT EXCLUSIVE TRIAL OF CASES UNDER
POCSO ACT, SALEM

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
AMMAPET, SALEM DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

CC to M/S. W.CAMYLES GANDHI Advocate on payment of necessary charges Sr.5851

सत्यमेव जयते

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CRL OP.11579/2020
Date :04/08/2020

RVR 07/08/2020