

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.08.2020

CORAM :

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

CrI.O.P.No.11435 of 2020

G.Ajith Kumar

.... Petitioner

-Vs-

The State Represented by  
Inspector of Police,  
W-8 All Women Police Station,  
Thirumangalam,  
Chennai.  
(Crime No.794 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.794 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.Velmurugan

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

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O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested on 14.07.2020, for the offences punishable under Sections 366 of IPC, 5(1), 6 r/w 9 of POCSO Act 2012, in Crime No.794 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de facto complainant Sekar is that his daughter xxx was found missing. Based on the complaint given by him, the case was originally registered under the caption 'for girl missing' and thereafter, during the course of investigation, it came to light that the petitioner had kidnapped the victim girl. Thereafter, the case was altered into one under Sections 366 of IPC, 5(1), 6 r/w 9 of POCSO Act 2012.

3. The learned counsel for the petitioner would submit that the petitioner, who is aged 23 years and the victim girl, who is aged about 17 years loved each other. He would submit that since the victim's parents compelled her to marry someone else, she 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 the petitioner was also arrested. He would further submit that the statement recorded under Section 164 Cr.P.C from the victim girl, wherein, she has stated that she had love affair with the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner kidnapped the daughter of the de facto complainant, who is aged about 17 years, and committed sexual assault on her. He would submit that the medical examination of the victim as well as the petitioner is completed and the statement under Section 164 Cr.P.C has been recorded from the victim girl. He would further submit that the petitioner was arrested on 14.07.2020 and that the investigation is pending.

5. 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 learned Sessions Judge, Special Court Exclusive Trial of Cases under POCSO Act, Chennai, 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, CHENNAI.

2 THE SUPERINTENDENT,  
CENTRAL PRISON, CHENNAI.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
W8 ALL WOMEN POLICE STATION,  
THIRUMANGALAM, CHENNAI.

+1CC to M/S. M.VELMURUGAN Advocate on payment of necessary charges  
SR.No.5842

CRL OP.11435/2020

Date :04/08/2020