

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :12.08.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.11709 of 2020

Venkatesan

... Petitioner

Vs.

The State represented by,

The Inspector of Police,

Pallikonda Police Station,

Vellore.(Crime No.458 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail pending investigation in Crime No.458 of 2020, on the file of the respondent police.

For Petitioner : Mr.T.Dharani

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Cr1. 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 18.06.2019 for the offences punishable under Sections 363 IPC r/w 5(1),6 of POCSO Act,2012 in Crime No.458 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the de-facto complainant one Subash is that her minor daughter was found missing. During the course of the investigation, it came to the light that the petitioner had kidnapped the minor girl and committed penetrative sexual assault with her. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the petitioner and the daughter of the defacto complainant were loving each other. She is in the verge of attaining the majority and she had eloped with the petitioner from house and

petitioner along with victim girl surrendered before the respondent police. He would submit that the petitioner is in custody for more than 53 days. Hence, he seeks for grant of anticipatory bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the minor daughter of the defacto complainant and committed penetrative sexual assault on her. He would submit that age of the victim girl is 15 years and that her statement was recorded under section 164 Cr.P.C and medical examination of the petitioner and the victim girl is also completed. However, he opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and submission of the learned counsel and also perused the records and 164 Cr.P.C statement, 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 Judge for Exclusive Trial of Cases under POCSO-2012, Vellore, Vellore District, within 15 days from the date of lifting of the lock down and the commencement of the Court's normal functioning, 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 week and thereafter on 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

(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/-
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 SPECIAL JUDGE FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO-2012,
VELLORE,VELLORE DISTRICT.

2 THE SUPERINTENDENT,
SUB JAIL,GUDIYATHAM

3 THE PUBLIC PROSECUTOR,
HIGH COURT,MADRAS.

4 THE INSPECTOR OF POLICE,
PALLIKONDA POLICE STATION,
VELLORE.

+1 CC to M/S. T.DHARANI Advocate on payment of necessary charges SR.NO..NO 5913

CRL OP.11709/2020

Date :12/08/2020

GKS (TA) :17/08/2020