

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.08.2020

CORAM :

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

Crl.O.P.No.11701 of 2020

R.Vinothkumar

... Petitioner

Vs.

State Rep by
The Inspector of Police,
All Women Police Station
Thiruthuraipoondi, Thiruvarur District
Crime No.10 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.10 of 2020 on the file of the Inspector of Police, All Women Police Station Thiruthuraipoondi, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian

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 06.07.2020 for the offences punishable under Sections 366(A) of IPC and Section 12 r/w 11 of POCSO Act, 2012 @ Section 366(A) of IPC and Section 6 r/w 5(1) of POCSO Act 2012, in Crime No.10 of 2020 seeks bail.

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

3.The learned counsel appearing for the petitioner would submit that the petitioner and the defacto complainant are close relatives and that there was a love affair between the petitioner and the defacto complainant's daughter. Since, it was objected by the defacto complainant, the victim came to the house of the petitioner. Thereafter, the defacto complainant came to the house of the petitioner and asked her daughter to come back home. But it was refused by the victim girl and thereby, the defacto complainant has lodged the complaint with the respondent police. 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 06.07.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner is aged 25 years and the victim girl is aged 14 years. The petitioner who is the relative of the defacto complainant had committed sexual assault on the minor daughter of the defacto complainant. 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 before the Mahila Court, Thiruvavur, and it is yet to be numbered.

5. Heard both side 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, Thiruthuraiipoondi, Thiruvavur 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,
THIRUTHURAIPOONADI, THIRUVARUR DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUTHURAIPOONDI,
THIRUVARUR DISTRICT.

4 THE OFFICER INCHARGE,
DISTRICT PRISON, NAGAPATTINAM.

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

CRL OP.11701/2020

Date :12/08/2020

RVR 15/09/2020