

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No. 12427 of 2020

Ajith

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kadathur Police Station,
Dharmapuri District.
(Crime No.34 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in connection with Crime No.34 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Sankarasubbu

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 13.07.2020 for the offences punishable under Sections **5(1) & 6 of POCSO Act 2012** in Crime No. 34 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that the petitioner had committed penetrative sexual assault on the victim girl due to which, she is presently carrying six months old pregnancy. Hence, the complaint.

3.The learned counsel for the petitioner would submit that the petitioner and the victim girl are relatives and they were in love with each other and that without knowing the consequences they had sexual affair, due to which, the victim girl became pregnant. He would submit that the parents of the petitioner and the parents of the victim girl have decided to conduct the marriage between the petitioner and the victim girl, once she

attains majority. He would further submit that now the victim is also been taken care by the parents of the petitioner. He would reiterate that the victim is uncle's daughter of the petitioner.

4.The learned Government Advocate(Crl.Side) would submit that the petitioner had committed penetrative sexual assault on the victim girl who is his cousin. He would submit that victim is now six months pregnant and that the statement of the victim girl under Section 164 Cr.P.C has been recorded and the medical examination in respect of the petitioner and the victim girl is also completed and the investigation is pending. Hence, he opposed for the grant of bail to the petitioner.

5.Taking into consideration the facts of the case and submissions made by the learned counsels and the period of incarceration, 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 Fast Track Mahila Court, Dharmapuri 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 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

(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/-
18/08/2020

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 FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KADATHUR POLICE STATION,
DHARMAPURI DISTRICT.

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

CRL OP.12427/2020

Date :18/08/2020

MK:03/09/2020

WEB COPY