

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.08.2020

CORAM :

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

Crl.O.P.No.11791 of 2020

Kanniyappan @ Vinoth

... Petitioner

Vs.

The State of Tamil Nadu
Rep. By the Inspector of Police
W30, All Women Police Station,
Poonamallee.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation of the case in the crime No.6 of 2020 on the file of the respondent police (W-30 All Women Police Station, Poonamallee).

For Petitioner : Mr.M.Illiyas

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 02.07.2020 for the offences punishable under Sections 417, 420, 506(ii) of IPC in Crime No.6 of 2020 seeks bail.

2. The case of the prosecution as per the defacto complainant Padma is that she got married in the year 2017 with one Rajasekar. Thereafter, her husband left her. While so, she was working in a export company. At that time, she got acquaintance with the petitioner accused and that they were loving each other. While so, on the false assurance of marrying her, the petitioner had sexual intercourse with her due to which, she had become pregnant. On 28.06.2020, she developed labor pain following which, she was admitted in the hospital and that on 30.06.2020, she delivered a still born child. Thereafter, the petitioner accused refused to marry her. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. The defacto complainant is a married women and that it was a consensual affair between the petitioner and the defacto complainant and that the petitioner and defacto complainant were aware

of the earlier marriage despite that she had relationship with the petitioner. He would further submit that the petitioner has been suffering incarceration from 02.07.2020 and the major part of investigation is over. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that the defacto complainant is a married women and she had separated from her husband. While so, the petitioner had developed friendship with her and thereafter on the false assurance, he had sexual intercourse with her due to which, she become pregnant and on 30.06.2020, she delivered a still born child. Thereafter, the petitioner refused to marry her. Hence, he vehemently opposed to grant bail to the petitioner.

5.Taking into consideration of the facts and circumstances and the submissions made by the learned counsels and considering 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 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) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned District Munsif cum Judicial Magistrate, Sriperumbudur. 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. 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.

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

-sd/-
05/08/2020

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 DISTRICT MUNSIF CUM
JUDICIAL MAGISTRATE, SRIPERUMBUDUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W30, ALL WOMEN POLICE STATION,
POONAMALLEE.

+1 CC to M/S.M.ILLIYAS Advocate on payment of necessary charges
SR.No.5860

CRL OP.11791/2020

Date :05/08/2020

cs 07/08/2020