

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 11863 of 2020

MANOJKUMAR

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
ALL WOMEN Police Station,
NANILAM,
Tiruvarur District.
(Crime No.4 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the Petitioner on bail in Crime No.4 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr.J.Jawahar

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 16.06.2020 for the offences punishable under Section 6 r/w. 5(1), 5(j) (ii) of POCSO Act, 2012, in Crime No. 4 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution is that on 14.06.2020, the respondent police received an information from the Raja Mirasuthar Hospital, Tanjore stating that a minor girl was admitted for stomach pain and during examination, it was found that the victim was pregnant. Based on which, a case was registered and the petitioner was arrested.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that even as per the statement of the petitioner, it is stated to be a consensual affair between the

parties. He would submit that the petitioner is prepared to file an affidavit of undertaking before the concerned Magistrate Court to marry the victim girl if the DNA report proves that he is the father of the child. Hence, he seeks for grant of bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner is the friend of the victim's brother. He would submit that the petitioner had committed penetrative sexual assault on the minor girl who is aged about 16 years and now she has delivered a girl child on 14.06.2020. He would also submit that medical examination of the petitioner and the victim girl is completed and the statement of the victim was recorded under Section 164 Cr.P.C wherein the victim has stated that the petitioner is responsible for the pregnancy. He would further submit that the DNA test report is awaited. Hence, he vehemently opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and circumstances and the submission made by the counsel that the petitioner 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 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 Additional Sessions Judge, Fast Track Mahila Court, Tiruvarur, 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 petitioner shall at the time of executing sureties, shall file an affidavit of undertaking that he will marry the victim girl if the the DNA test confirms that the petitioner is the father of the child.

(d) 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;

(e) the petitioner shall report before the respondent police everyday at 05.30 p.m. until further orders.

(f) the petitioner shall not commit any offences of similar nature;

(g) the petitioner shall not abscond either during investigation or trial;

(h) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(i) 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];

(j) 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/-

14/08/2020

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 ADDITIONAL SESSIONS JUDGE, FAST
TRACK MAHILA COURT, TIRUVARUR.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE OFFICER INCHARGE
DISTRICT JAIL-NAGAPATTINAM.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NANILAM, TIRUVARUR DISTRICT.

CC to M/S. J.JAWAHAR Advocate on payment of necessary charges

CRL OP.11863/2020

Date :14/08/2020

TA-08/09/2020

<https://hcservices.ecourts.gov.in/hcservices/>