

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.12154 of 2020

Vetrivel

... Petitioner

Vs.

State by:

The Inspector of Police,
All Women Police Station,
Harur,
Dharmapuri District.
(Crime No.5 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.5 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr. K.K.N.Ganesan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.05.2020 for the offences punishable under Section 5(1)(n) 6 of Prohibition of Children from Sexual Offence Act altered as 5(a)(i), 5(a)(ii), 5(a)(iii), 9(a)(iii), 10 of Prohibition of Children from Sexual Offence Act, in Crime No.5 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one ***** aged about 16 years, daughter of Moorthi is that the petitioner on the false promise of marrying her had committed penetrative sexual assault on her and later he refused to marry her and he intended to marry some other lady. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are close relatives and would submit that the victim is none other than the sister's daughter and that they have decided to get married after the victim

attains majority. However there was some misunderstanding between the petitioner and the victim and on a wrong presumption that the petitioner is going to marry some other lady, a false case has been foisted against the petitioner, based on which the petitioner was arrested. He further submitted that the petitioner is a Post Graduate and completed his degree in MSW and he is presently working as a Grade-I police constable in the police Department. He would further submit that the petitioner has also given an undertaking by way of an Affidavit from prison stating that he undertakes to marry the defacto complainant once she attains majority and he has also expressed his remorse and apologies for the past mistakes. He would further submit that the petitioner is in custody for more than 85 days and hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the victim is none other than the niece of the defacto complainant and they were living in a same house. The petitioner on a false promise of marrying her had committed penetrative sexual assault on the girl and later he had refused to marry the girl with an intention to marry some other lady who is well settled. He further submitted that the statement of the victim has been recorded and the medical examination in respect of the petitioner and the victim is also taken. He would further submit that the major part of the investigation is over. However, he opposed for the grant of bail to the petitioner.

5. Taking into consideration of the facts and submissions made by the learned counsel and also the affidavit of undertaking given by the petitioner and also 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 Fast Track Mahila Court, Dharmapuri, Dharmapuri 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 Aadhaar card or Bank pass Book to ensure their identity;

(d) **the petitioner shall report before the Respondent Police Station every day 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 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.

(j) the affidavit of undertaking shall form part of the records of this Court.

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

-sd/-

13/08/2020

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, DHARMAPURI DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
HARUR, DHARMAPURI DISTRICT.

CC to M/S. K.K.N.GANESHAN Advocate on payment of necessary charges

CRL OP.12154/2020

Date :13/08/2020

TA-08/09/2020

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