

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2020

CORAM :

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

Cr1.O.P.No.12149 of 2020

Y.Babu

... Petitioner

Vs.

State by:

The Inspector of Police,
Anaicut Police Station,
Vellore District.
(Crime No.447 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.447 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr. E. Kannadasan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Cr1. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 24.07.2020 for the offences punishable under Section 294 (b), 448, 506(i) of IPC read with Section 12 of the Protection of Children from Sexual Offence Act, in Crime No.447 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Balaji is that the petitioner who is a neighbour had entered into his house and proposed love to his minor daughter and pulled her hands. When it was questioned by the defacto complainant, the petitioner had abused them in filthy language and also threatened with dire consequences. Later, when the defacto complainant enquired with his daughter, she has told that the petitioner has harassed her several times. Hence, the complaint.

3. The learned Counsel for the petitioner would submit that the petitioner and the defacto complainant are neighbours and due to previous enmity, a false complaint has been given against the petitioner. He would further submit that even as per the complaint, there is no allegation of sexual harassment. He would further submit that the petitioner has been suffering incarceration from 23.07.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the petitioner who is the neighbour of the defacto complainant, had been harassing the minor daughter of the defacto complainant on several occasions and thereafter on the date of occurrence, the petitioner had entered into the defacto complainant's house and proposed love to his minor daughter and also pulled her hands. When it was questioned by the defacto complainant, the petitioner had abused them in filthy language and also threatened with dire consequences. Hence, he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and the submissions of the learned counsels 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 Judicial Magistrate No.V, Vellore **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 stay at Vellore Town and report before the Sathuvachery Town Police Station every day at 10.30 a.m. And 5.30 p.m. until further orders. The petitioner shall not enter the jurisdictional limits of the respondent police station.**

(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.

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 JUDICIAL MAGISTRATE NO.V,
VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ANAICUT POLICE STATION,
VELLORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.
(PRESENTLY CONFINED AT GOVERNMENT HOSPITAL, ADUKKAMPARAI,
VELLORE)

6 THE OFFICER INCHARGE
SATHUVACHERY TOWN POLICE STATION
VELLORE TOWN.

CC to M/S.E.KANNADASAN Advocate on payment of necessary charges

CRL OP.12149/2020

Date :13/08/2020