

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2020

CORAM :

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

Crl.O.P.No.12137 of 2020

Manikandan

... Petitioner

Vs.

State by:

... Respondent

The Inspector of Police,
All Women Police Station,
Thiruthuraipoondi,
Thiruvarur District.
(Crime No.12 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.12 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr.S.Sekar

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 11.07.2020 for the offences punishable under Section 376 (k) of IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act, in Crime No.12 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant one Manickam is that the accused had committed rape on his married daughter who was mentally depressed. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is aged about 20 years and it is a case of consensual affair between the petitioner and the victim who is a married woman, which has been falsely projected as a case of rape. He would further submit that the alleged victim was married 5 years back and that some misunderstanding between the victim and her

husband, she had come back to her parents house where the petitioner and the alleged victim developed friendship. He would further submit that the petitioner was arrested on 11.07.2020 and he has been in judicial custody for the past one month and the medical examination is also over. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner who is aged about 20 years had committed sexual assault on the victim who is a married woman. He would submit that the victim is having some psychiatric problem. Hence he opposed grant of bail to the petitioner.

5.Taking into consideration of the facts and circumstances and also considering the submissions made by the learned counsels and considering the period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner, subject to the following condition:

(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, Thiruthuraipoondi, **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.

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,
THIRUTHURAIPOONDI.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUTHURAIPOONDI, THIRUVARUR DIST.

5 THE OFFICER INCHARGE
DISTRICT JAIL, NAGAPATTINAM.

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

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CRL OP.12137/2020
Date :13/08/2020

TA-08/09/2020