

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.12196 of 2020

Sivaprasanth @ Siva

... Petitioner

Vs.

State by:

... Respondent

The Inspector of Police,
Palaiyur Police Station,
Nagapattinam District.
(Crime No.621 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.621 of 2020 pending investigation on the file of the Respondent Police.

For Petitioner : Mr. S. P. Harikrishnan

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 04.06.2020 for the offences punishable under Section 294 (b), 506(ii) of IPC read with Section 8, 12 of the Protection of Children from Sexual Offence Act, in Crime No.621 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one Devi is that the petitioner had obtained the mobile number of her minor daughter and started harassing her over phone and also in person and when the defacto complainant had questioned him, he had threatened her. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and that a false complaint has been given by the defacto complainant suspecting that the petitioner was having relationship with her daughter. He would further submit that the petitioner was arrested on 04.06.2020 and

even as per FIR there is no allegation of physical harassment or sexual torture on the victim girl. 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 petitioner earlier had obtained mobile number of the defacto complainant's daughter while taking survey and thereafter had started to harass her in person and through phone, when this was questioned by the defacto complainant, the petitioner had abused her with filthy language and threatened and intimidated her. However, he objected the grant of bail to the petitioner.

5. Taking into consideration of the facts and submissions made by the learned counsel and also considering the period of incarceration suffered 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 Special Court for POSCO Act/ Sessions Judge, Nagapattinam, **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 Nagapattinam and report before the Nagapattinam 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 SPECIAL COURT FOR POSCO ACT/ SESSIONS
JUDGE, NAGAPATTINAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON,
TRICHY

4 THE INSPECTOR OF POLICE,
PALAIYUR POLICE STATION,
NAGAPATTINAM DISTRICT.

5 THE OFFICER INCARGE
NAGAPATTINAM TOWN POLICE STATION
NAGAPATTINAM.

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

CRL OP.12196/2020

Date :13/08/2020

TA-08/09/2020