

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 12271 of 2020

E.Thirupathi

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Katpadi Police Station,
Vellore District.
(Crime No.817 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in connection with the case in Crime No.817 of 2020 pending investigation on the file of the respondent police.

For Petitioner : M/s.Karan and Uday

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 09.07.2020 for the offences punishable under Section 4 of Girl Missing altered to 366 (A) IPC, section 9 of Child Marriage Act, 2006 and section 6 of the Protection of Children from Sexual Offences Act 2012 in Crime No. 817 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the de-facto complainant is that the petitioner had kidnapped his minor daughter and committed penetrative sexual assault on her. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner and the daughter of the defacto complainant belong to same community

and that the defacto complainant who is the step father of the victim, had intended to conduct the marriage of the victim girl with an old man. Because of that, the victim girl eloped and came along with petitioner. He would submit that after coming to know that the case was registered, the petitioner along with victim girl surrendered before the respondent police. He would submit that the petitioner is in custody from 09.07.2020. 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 had kidnapped the minor daughter of the defacto complainant and committed penetrative sexual assault on her. He would submit that age of the victim girl is 15 years and that her statement was recorded under section 164 Cr.P.C and the medical examination on the petitioner and the victim girl is also completed. However, he opposed to grant bail to the petitioner.

5 Heard both sided and and perused the records and 164 Cr.P.C. statement recorded from the victim girl.

6 Taking into consideration of the facts and submission of the learned counsels 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 Special Judge for Exclusive Trial of Cases under POCSO Act 2012, Vellore, Vellore District, 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 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;

(d) the petitioner shall report before the respondent police everyday 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 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];

(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/-

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 SPECIAL JUDGE FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT 2012, VELLORE, VELLORE
DISTRICT

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL JAIL, VELLORE.

4 THE INSPECTOR OF POLICE
KATPADI POLIC STATION,
VELLORE DISTRICT.

CC to M/S KARAN AND UDAY Advocate on payment of necessary charges

CRL OP.12271/2020

Date :14/08/2020

TA-08/09/2020