

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.08.2020

CORAM :

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

Crl.O.P.No.12566 of 2020

Velan

.... Petitioner

-Vs-

The State of Tamil Nadu by its
The Inspector of Police,
Kolathur police station,
Salem District.
(Cr. No.371 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.371 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.V.Arun

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested on 07.06.2020, for the offences punishable under Section 363 and 366 of IPC and Section 6 r/w 5(1) of POCSO Act and Section 9 of Prohibition of Child Marriage Act, 2006 in Crime No.371 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Durai is that his minor daughter was found missing. Based on the complaint, the case was registered under the caption 'Girl Missing'. During the course of investigation, it was found that one Tamilselvan has kidnapped her and he had married her and committed penetrative sexual assault on her. The allegation against the petitioner is that the petitioner is the relative of Tamilselvan (A1) and he had given accommodation to the first accused and the victim girl.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the petitioner is the maternal uncle of

said Tamilselvan (A1) and immediately, the petitioner had informed both of them to surrender before Court and thereafter, the respondent arrested the first accused and later he was released on bail. The facts remain that there was only a consensual relationship between the daughter of the *de facto* complainant and Tamilselvan (A1).

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner is the maternal uncle of A1-Tamilselvan and that A1 has kidnapped the daughter of the *de facto* complainant. He would submit that the allegation against the petitioner is that he permitted both of them to stay at his house. He would submit that A1 has been released on bail.

5. Taking into consideration of the facts and circumstances of the case, 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) each, before the Superintendent of the concerned prison, in which the petitioner has been confined on his release;

(b) Thereafter, the Petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the Special Court for Exclusive Trial of Cases under POCSO Act, Salem, within 15 days from the date of lifting of the 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 Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall report before the respondent police every day at 10.30.am 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/-

19/08/2020

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.

(*) Corrected Copy to be substituted for the order already despatched on 10/09/2020.

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
SALEM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
KOLATHUR POLICE STATION,
SALEM DISTRICT.

4 THE OFFICER INCHARGE,
DISTRICT JAIL, ATHUR.

**(*) 5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM**

+1 CC to M/S.A.V.ARUN Advocate on payment of necessary charges
SR.NO.5983

CRL OP.12566/2020

Date :19/08/2020

TA-21/08/2020

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