

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.12677 of 2020

Karunamoorthy

... Petitioner

Vs.

The State Represented by,
The Inspector of Police,
W16-Pulianthope All Women Police Station,
Chennai.
(Crime No.7/2020.

... Respondent

Prayer: Criminal Original Petition filed under Section 438 Cr.P.C. to enlarge the petitioner on bail in the event of his arrest by the respondent police in Crime No.7 of 2020 on the file of the respondent police.

For Petitioner : Mr.N.Naresh

For Respondent : Mr. M. Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences publishable under Section 6 of POCSO Act in Crime No.7 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant Rajkumar is that A1/Karunamoorthy 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 and the victim girl are neighbours and that they were in love with each other. Since, it was not accepted by their family members, without understanding the consequences, the petitioner had eloped with the victim girl and they were living as husband and wife. During such period, the victim became pregnant and she was admitted in the hospital for delivery wherein, based on the complaint given by the father of the victim, the case came to be registered. He further submitted that the victim girl had eloped on her own volition with the petitioner. Hence, he seeks for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner had kidnapped the minor girl aged about 17 years and committed penetrative sexual assault on her due to which, the victim girl has delivered a male baby. He would further submit that the major part of investigation is over and the statement of the victim has been recorded under Section 164 of Cr.P.C. and that the medical examination in respect of the petitioner and the victim girl is also completed.

5. Taking into consideration the facts and submissions of the learned Counsels, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is directed to be released on bail in the event of his arrest or on his appearance, within a period of fifteen after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, before the learned Special Court Exclusivly Triable for POCSO Act, Chennai, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police every day at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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 petitioners 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

07/09/2020

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 EXCLUSIVELY
TRIABLE FOR POSCO ACT, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE
W16-PULIANTHOPE ALL WOMAN POLICE STATION,
CHENNAI.

CC to M/S. N.NARESH Advocate on payment of necessary charges
Sr.6161

CRL OP.12677/2020

Date :07/09/2020

RVR 14/09/2020

सत्यमेव जयते

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