

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 31.08.2020

CORAM :

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

Crl.O.P.No.13316 of 2020

Suriya

... Petitioner

Vs.

The State Represented by
Inspector of Police,
Kundadam Police Station,
Dharapuram Taluk,
Tiruppur District.
Crime No.853 of 2020

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with case in Crime No.853 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. N.Ponraj

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.07.2020 for the offences punishable under Section 366 IPC and Section 5(1) r/w 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.853 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant is that his minor daughter was missing. Based on the complaint, the case was registered under the caption girl missing, during the course of enquiry, it came to light that the petitioner had kidnapped and committed penetrative sexual assault on the minor girl.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and the petitioner and the girl had consensual affair and the case has been wrongly projected as the case of sexual assault. He would submit that the petitioner is aged 19 years and the victim is aged 18 years and they were loving each other and since it was opposed by the parents of the victim girl, she eloped and joined with the petitioner. After knowing about the case, the petitioner has surrendered to the police and a false complaint has been given.

4.The learned Government Advocate (CrI. Side) would submit that the case was originally registered under the caption girl missing and later it came to light that the victim was kidnapped by the petitioner in his motor cycle. He would further submit that medical examination in respect of the petitioner and the victim has been conducted and statement under Section 164 Cr.P.C has been recorded.

5. Heard both counsel and perused the statement recorded under Section 164 Cr.P.C.

6. Taking into consideration of the facts and circumstances, considering the submissions made by the learned counsel, and also considering the period of incarceration suffered by the petitioner from 19.07.2020, 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) Thereafter, the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Judicial Magistrate, Dharapuram 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 Aadhar card or Bank pass Book to ensure their identity;

(d) the petitioner on his release from prison, shall report before the respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter every Monday 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

(i) If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-

31/08/2020

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,
DHARAPURAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
KUNDADAM POLICE STATION,
DHARAPURAM TALUK,
TIRUPPUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE.

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

CRL OP.13316/2020

Date : 31/08/2020

RVR 10/09/2020

WEB COPY