

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.09.2020

CORAM :

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

Crl.O.P.No.13634 of 2020

Vinothkumar
S/o. Ramamoorthy

... Petitioner

Vs.

The State Rep. by
The Sub Inspector of Police,
Tiruvalam Police Station,
Vellore District.
Crime No.946 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.946 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. D.Thirumoorthy
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 24.06.2020 for the offences punishable under Sections 376 (1) IPC r/w Section 4 of POCSO Act, in Crime No.946 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner had committed penetrative sexual assault on the minor victim girl. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner and the victim are close relatives and they are living in nearby houses. He would submit that the petitioner and the victim grew together and that they were in love with each other and without understanding the consequences, the petitioner committed sexual intercourse with the girl. He would submit that the petitioner was arrested on 24.06.2020 and he is in custody for almost 66 days. He would further submit that the parents of the petitioner and the parents of the victim girl have entered into a memorandum of agreement in the presence of Panchayatars that when the minor girl

attains majority, marriage will be conducted between the petitioner and the victim girl. He would submit that Section 164 statement was recorded from the victim girl and the medical examination of the petitioner and the victim girl has also been completed.

4.The learned Government Advocate (Crl. Side) would submit that the victim girl and the petitioner are neighbours for long time and the petitioner committed penetrative sexual assault on the victim girl aged 14 years. He would further submit that investigation is over and the charge sheet was filed before the POCSO Court, Vellore on 19.08.2020.

5. 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 24.06.2020, 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) the petitioner shall within a period of two weeks after lifting of lockdown or the commencement of the Court's normal functioning whichever is earlier, execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only), before the learned Special Judge for exclusive trial of cases under POCSO Act, Vellore, 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 stay at Vellore and report before the Sathuvachari Police Station everyday at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police.

(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/-

03/09/2020

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 JUDGE FOR EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
VELLORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 SUB INSPECTOR OF POLICE,
TIRUVALAM POLICE STATION,
VELLORE DISTRICT.

5 THE OFFICER INCHARGE
STHUVACHARI POLICE STATION,
VELLORE

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

CRL OP.13634/2020

Date : 03/09/2020

RD 08/09/2020