

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.10.2020

CORAM :

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

CRL.O.P.No.14537 of 2020

P.Kullannan alias Palani

... Petitioner

Vs.

The State Rep. By its
Inspector of Police,
Palacode Police Station,
Dharmapuri.
(Crime.No.1493/2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.1493 of 2020 pending investigation on the file of the respondent.

For Petitioners : Mr.A.Ilaya Perumal

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 26.07.2020 for the offences punishable under Sections 9(m), 9(n), (1), 10, 11 (1) & 12 of Protection of Children from Sexual Offences Act, 2012, in Crime No.1493 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that the petitioner lifted his lungi and exhibited his private part and called the victims to his hosue who are aged 11 years, 13 years and 10 years respectively.

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 due to dispute with the defacto complainant who is his neighbor. He would further submit that even as per the allegations in the F.I.R., the petitioner is stated to have exhibited his private part and that there is no allegation of sexual assault on the victim girls. He would further submit that now the investigation is completed and the petitioner is prepared to abide by any stringent condition that is imposed on him and that the petitioner has been suffering incarceration from 26.07.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner who is the neighbor of the defacto complainant, had called three minor girls and exhibited his private part and also called them to his house. He would further submit that the investigation is completed and charge sheet has been laid for offences under Sections 9(1)(4) read with 12 of POCSO Act before the Mahila Court, Dharmapuri.

5.Heard the learned counsels on either side. Perused the F.I.R. as well as the statement of the victim girls recorded under Sections 164 Cr.P.C.

6.Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsels and the fact that the investigation has been completed and the final report has been filed and also taking into consideration the period of incarceration suffered by the petitioner, 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 a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Sessions Judge (FAC), Fast Track Mahila, Dharmapuri, and on further conditions that:

(b) 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;

(c) the petitioner on his release from prison shall stay at Salem and report before the Salem Town Police station everyday at 10.30 a.m. for a period of one month. Thereafter, the petitioner shall appear before the trial Court on the dates fixed by the Trial Judge. The petitioner shall not enter into the jurisdictional limits of the respondent or nearby the house of the victims girls till the examination of the victims is completed by the Trial Court.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) 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/-

12/10/2020

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 SESSIONS JUDGE (FAC)
FAST TRACK MAHILA, DHARMAPURI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 INSPECTOR OF POLICE,
PALACODE POLICE STATION,
DHARMAPURI.

4 THE OFFICER INCHARGE,
SUB JAIL, DHARMAPURI

5 THE OFFICER INCHARGE,
SALEM TOWN POLICE STATION,
SALEM.

CC to M/S.A.ILAYA PERUMAL Advocate on payment of necessary charges SR.NO.6789

CRL OP.14537/2020

Date : 12/10/2020

RVR 13/10/2020

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