

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14720 of 2020

Sudharsanan @ Honestraj

... Petitioner

Vs.

State Represented by
The Inspector of Police
Mamallapuram Police Station
Kancheepuram
Crime No.1001 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.1001 of 2020 on the file of the respondent police.

For Petitioner : Mr.M.I.Javid Akbar

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 27.07.2020 for the offence punishable under Sections 376(D), 394, 397 read with 120(b) IPC in Crime No.1001 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Rajendran is that he is working as a Watchman in a bungalow at ECR near Mamallapuram. One the date of occurrence, three unknown persons who could be identified, scaled over the wall of the bungalow and entered into the bungalow and tied the defacto complainant with rope and locked his two children in a room. Thereafter, they took his wife into room, snatched her ear ring, anklet and raped her under threat by showing stun gun and knife. Later, on hearing the voice of the Milk man, the accused fled from the scene of occurrence through Buckingham Canal. Thereafter, on the complaint given by the defacto complainant, the case was registered and subsequently, based on the registration number of the two wheeler, the petitioner was arrested and thereafter, on his confession, A1 to A3 were arrested.

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 since, he happens to be the friend of the main accused who committed the offence. He would submit that the petitioner is a resident of Naravarikuppam, Red Hills. A1 who is known to him had borrowed his bike and that A1 along with other

accused committed the offence. Other than lending his motorcycle to the other accused, the petitioner has not committed any offence and he had not even gone to the scene of occurrence. In fact at the relevant time of occurrence, the petitioner was at Red Hills and only based on the registration number of the vehicle, the petitioner was arrested. In fact the petitioner is the person who gave information about the other accused based on which, the other accused were arrested. He would submit that the petitioner has no previous case against him and that he has been suffering incarceration for more than 60 days from 27.07.2020. 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 is the friend of A1 to A3. The petitioner had lent his bike to A1 and the accused A1 to A3 had gone to Mamallapuram and by scaling the compound wall, they have entered into the bungalow where the defacto complainant is working as a Watchman. Thereafter, they tied him with rope and locked his children in a room and later, raped the wife of the defacto complainant by threatening with knife and electrocuting her with a electrical stun gun. Thereafter, on seeing the Milkman, they escaped from the scene of occurrence through Buckingham Canal. He would further submit that A1 has been detained under Act 14 and the statement of the victim has been recorded under Station 164 Cr.P.C. wherein she has stated that that the accused A1 to A3 by threatening her with knife and by electrocuting her with an instrument, had committed rape on her. He would submit that the allegation against this petitioner is that he had informed the other accused about the house and had also planned with them to commit robbery. However, he had not gone to the scene of occurrence.

5. Heard the learned Counsels and perused the materials placed on record.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsels and also considering the period of incarceration undergone 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 Judicial Magistrate, Thirukazhukundram, 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 shall report before the respondent police everyday at 10.30 a.m. until further orders.

(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/-

06/10/2020

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 JUDICIAL MAGISTRATE,
THIRUKAZHUKUNDRAM.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
MALLAPURAM POLICE STATION,
KANCHEEPURAM.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

+2 CC to M/S.M.I.JAVID AKBAR Advocate on payment of
necessary charges sr.6639

CRL OP.14720/2020

Date :06/10/2020

RVR 07/10/2020