



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 28.09.2020

CORAM :

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

CRL.O.P.No.15000 of 2020

SURIYA PRAKASH

... Petitioner

Vs.

The State rep. by the
Inspector of Police,
Elavanasoorkottai Police Station,
Villupuram District.
(Crime No.1493 of 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 on the file of the respondent police.

For Petitioner : Mr.S.Kingston Jerold

For Respondent : Ms.S.Thankira
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 06.09.2020 for the offences punishable under **Section 366(A) IPC and Section 4 of POCSO 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 Pommi is that the petitioner accused kidnapped her minor daughter. During the course of investigation, it was found that the petitioner had committed sexual assault on the victim girl. Thereby, the case was altered to Section 366(A) IPC and Section 4 of the POCSO Act.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given against him. He would submit that the victim girl was just short of two months for attaining majority and the petitioner and the victim were in love with each other. Since, it was opposed by the parents of the victim, she had eloped with the petitioner on 25.08.2020 and that on 26.08.2020, they got married at a temple in the presence of their friends and relatives and the parents of the petitioner accepted their marriage. On the same day, when they were in home, the defacto complainant and her relatives came to the house of the petitioner and he had taken her back to home on the assurance that proper



marriage would be conducted. Thereafter, the maternal uncle of the victim had compelled her to marry someone against her chose and thereby, on 05.09.2020 she came out of her house and joined the petitioner. Only then the present complaint has been given on 06.09.2020. He would further submit that the statement has also been recorded from the victim girl under Section 164 Cr.P.C. wherein, she had categorically stated that she voluntarily gone along with the petitioner and she has not stated anything as if she was sexually assaulted by the petitioner. He would submit that the medical examination in respect of the petitioner as well as on the victim is over and the petitioner has been suffering incarceration from 06.09.2020. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner kidnapped the minor girl who is aged 17 years 9 months and committed sexual assault on her. She would submit that the victim has been secured and her statement has also been recored under Section 164 Cr.P.C. by the Judicial Magistrate and the medical examination on both the petitioner and the victim girl has been completed.

5. Heard the learned Counsels and perused the materials placed on record as well as the statement of the victim girl recorded under Section 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 also considering the period of incarceration of the petitioner from 06.09.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

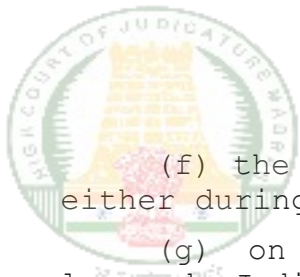
(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, each for a like sum to the satisfaction of the **learned Judicial Magistrate-I, Ulundurpet**, and on further conditions that;

(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 stay at Cuddalore and report before the Cuddalore Old Town Police Station everyday at 10.30 a.m. for a period of four weeks and he shall not enter into the jurisdictional limits of the respondent police till such time. Thereafter report before the respondent police every day 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/-
28/09/2020

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 JUDICIAL MAGISTRATE NO.I,
ULUNDURPET.

2 THE JAILER,
SUB JAIL, THIRUKOILUR.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ELAVANASOORKOTTAI POLICE STATION,
VILLUPURAM DISTRICT.

5 THE OFFICER INCHARGE,
CUDDALORE OLD TOWN POLICE STATION,
CUDDALORE.

+1CC to M/S.S.KINGSTON JEROLD Advocate on payment of
necessary charges SR NO.6509

CRL OP.15000/2020

Date :28/09/2020