

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.15011 of 2020

S.Santhoshkumar,

S/o.Subburayan

... Petitioner/Accused

Vs.

The State represented by,

The Inspector of Police,

Panruti Police Station,

Cuddalore District.

(Crime No. 710 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in connection with Crime No. 710 of 2020, on the file of the respondent police.

For Petitioner : Mr.P.Pugalenthir

For Respondent : Mrs.S.Thankira

Government Advocate (Cr1.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 09.07.2020 for the offence punishable under Section 174 Cr.P.C @ Section 306 of IPC read with Section 5(j)(ii) and 6 of the Protection of Children from Sexual Offences Act, 2012, in Crime No.710 of 2020, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Ganesan is that the petitioner and deceased were in love for about four years and that it came to the knowledge of the family members and they were making arrangements to perform the marriage between the petitioner and his daughter. On 10.06.2020, the defacto complainant's daughter went to bed and later she was found dead due to consumption of poison. During the course of enquiry, post-mortem was done and the victim was found to be three months pregnant. Later during the course of investigation, it came to light that the petitioner is responsible for the pregnancy.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner was having affair with the victim girl and that the petitioner was ready to marry the victim girl. He would submit that even as per the FIR, the father of the victim has stated that they were making

arrangements to perform the marriage between the petitioner and his daughter. Since, there was some opposition from the mother of the petitioner, the petitioner and the victim without understanding the consequences, took the extreme step of consuming poison and finishing their lives. He would submit that the victim has consumed poison in her house and the petitioner has consumed poison in his house and unfortunately, the victim girl died and the petitioner was saved. He would submit that the petitioner did not have any intention to cheat the victim girl and that they were having consensual relationship. He would submit that the petitioner is taking treatment in the hospital and his condition is also very bad and he has been transferred to Cuddalore Government Hospital for further treatment. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had committed penetrative sexual assault on the victim girl, due to which, the victim girl has become pregnant. She would submit that though the petitioner was ready for the marriage, the mother of the petitioner, who has arrayed as second accused, has objected for the marriage and thereby, the petitioner and the victim girl have taken extreme step of consuming poison. Unfortunately, the victim girl died and the petitioner is safe. She would submit that the petitioner is taking treatment in the hospital and that the second accused has been arrested. She would submit that the DNA test on the fetus and the petitioner has been conducted and awaiting for report. Hence, she opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and submissions made by the learned counsels and also considering the fact that the petitioner is in jail from 09.07.2020, 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 executing 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 execute two sureties, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Principal District and Sessions Court (Special Court: POCSO cases), Cuddalore, within a period of 15 days from the date of commencement of the Court's normal functioning, 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 shall stay at Cuddalore and report before the Cuddalore Old Town police station everyday at 10.30 a.m., until further orders and the petitioner shall not enter into the jurisdiction of the respondent police /limits.

(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/-

24/09/2020

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 PRINCIPAL DISTRICT AND
SESSIONS COURT[SPECIAL COURT POCSO CASES]
CUDDALORE

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
PANRUTI POLICE STATION,
CUDDALORE DISTRICT.

5 THE OFFICER INCHARGE
CUDDALORE OLD TOWN POLICE STATION,
CUDDALORE

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

CRL OP.15011/2020

Date :24/09/2020

RD 25/09/2020