

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.15064 of 2020

Balaji

... Petitioner

Vs.

The State rep by
Inspector of Police,
All Women Police Station,
Thiruthuraipoondi,
Thiruvarur District.
(Crime No.15 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.15 of 2020 on the file of the respondent police.

For Petitioner : Mr.Guruprasad

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 19.08.2020 for the offences punishable under Section 8 r/w 7 of Protection of Children from Sexual Offences Act, 2012 (POCSO), in Crime No.15 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant one Seetha is that she got married to the petitioner 15 years back and that they have one son and one daughter. The further allegation is that recently the petitioner suspected the defacto complainant and that there used to be frequent quarrel between them. On 17.08.2020 when the defacto complainant returned home, the door was locked and her daughter opened the door and ran out of the house and when questioned she had informed her that the petitioner, who is the father of the victim girl had touched her breasts inappropriately and attempted to misbehave with her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case due to matrimonial dispute with the defacto complainant. He would further submit that even as per F.I.R. the petitioner is stated to have suspected the fidelity of his wife, thereby, she has given a false complaint against the petitioner as if the petitioner has misbehaved with his own daughter. He would further submit that

the victim has been examined by the learned Judicial Magistrate and her statement under 164 Cr.P.C has been recorded. wherein, the victim has not supported the case of the prosecution. He would further submit that the petitioner is in custody from 19.08.2020.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the defacto complainant is the wife of the petitioner and the allegation is that the petitioner has misbehaved with his own daughter and touched her inappropriately. He would further submit that the statement recorded from the victim girl under 164 Cr.P.C. does not support the case of the prosecution.

5.Heard the learned counsels on either side. Perused the statement recorded from the victim girl under 164 Cr.P.C. and other documents placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also considering 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 District Mahila Court, Thiruvavarur, 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 Cuddalore and report before the Cuddalore O.T. Police station 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/-

08/10/2020

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 DISTRICT MAHILA COURT,
THIRUVARUR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR (FOR INFORMATION)

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUTHURAIPOONDI,
THIRUVARUR DIST.

5 THE OFFICER INCHARGE,
DISTRICT JAIL, NAGAPATTINAM.

6 THE OFFICER INCHARGE,
CUDDALORE O.T. POLICE STATION,
CUDDALORE.

CC to M/S.M.GURUPRASAD Advocate on payment of necessary charges
SR.6735

CRL OP.15064/2020

Date :08/10/2020

RVR 09/10/2020