

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.10.2020

CORAM :

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

CRL.O.P.No.15748 of 2020

Sajin Varghese

... Petitioner

Vs.

State rep by
The Inspector of Police,
W-35, All Women Police Station,
Tambaram
(Crime No.13/2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.13 of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.V.Purushothaman

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 04.09.2020 for the offence punishable under **Sections 5 (j) (i), 5(i) and 6 of Protection of Children from Sexual Offences Act, 2012 and Section 506(i) of IPC, in Crime No.13 of 2020** on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Sneha is that when she was 16 years old, she had an affair with one Subin Babu/A1 and that they used to have physical affair from the year 2017. While so, the first accused Subin Babu had purchased a mobile phone for her and they used to contact with each other frequently. Further, whenever they used to have physical affair, A1 used to take videos of the same. Thereafter, A1 had taken an amount of Rs.3 lakhs from her on various occasion under threat of uploading the videos in Internet and continued to demand money from the victim. Unable to bear the torture, the victim girl attempted to commit suicide and that the matter came to the knowledge of the parents of the victim girl. Thereafter, when the parents of the victim had asked A1 to delete the videos

and to return the money taken from the victim, he agreed to delete the videos and returned Rs.1,20,000/- through bank and also agreed to give back the balance amount in piece meal. Since, the victim was mentally affected, her father sent her to Jalandhar, Punjab. However, since she was unable to forget the incidents with A1, she had come back to Chennai. During, September 2019, A1 had met her and compelled her to have relationship with him under threat of uploading the videos in the Internet. Later, when the victim had asked A1 to marry her, he refused the same. Thereafter, on 09.03.2020, when she was on her way to a temple, A1 and his friends waylaid her and threatened her stating that they will upload all the videos in the Internet and thereby, the defacto complainant has given the complaint to take action.

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 A1 Subin Babu. He would submit that there was an affair between the defacto complainant and the friend of the petitioner one Subin Babu and since, they belong to two different religions, it was objected by the parents of the defacto complainant and she was sent to Punjab. Later, she had come back to Chennai and had compelled A1 to marry her and that there was some dispute between them due to which, a false complaint has been given. Even as per the allegation against the petitioner is concerned, he is only said to have waylaid the defacto complainant and threatened her stating that her videos will be uploaded in the Internet. He would further submit that the chat details between the defacto complainant and the first accused would go to show that there was a love affair between them and due to some dispute between them, a false complaint has been given. He would further submit that the petitioner is prepared to abide by any stringent condition and that the petitioner has been suffering incarceration from 04.09.2020. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that one Subin Babu/A1 had affair with the defacto complainant when she was a minor and had also abused her physically and taken videos of her. Later refused to marry her and also threatened her to upload her videos in the social media. He would further submit that insofar as the petitioner is concerned, he is the friend of A1 and that he also threatened the defacto complainant.

5.Heard the learned counsels. Perused the F.I.R.

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, 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, Tambaram**, 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 Trichy and report before the Trichy Cantonment Police Station, everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police until further orders. The petitioner is also directed not to contact or intimidate the victim girl.

(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/-
13/10/2020

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 COURT-I,
TAMBARAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-35, ALL WOMEN POLICE STATION,
TAMBARAM.

5 THE OFFICER INCHARGE,
TRICHY CANTONMENT POLICE STATION,
TRICHY.

CC to M/S.V.PURUSHOTHAMAN Advocate on payment of necessary
charges

CRL OP.15748/2020

Date :13/10/2020

MK:14/10/2020



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