

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

CORAM :

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

CRL.O.P.No.15765 of 2020

Mr.Ramesh

... Petitioner

Vs.

State represented by the Inspector of Police,
East All Women Police Station,
Coimbatore city.
(Crime No.834 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Spl.C.C.No.56 of 2020 Special Court of Exclusive Trial of Case under POCSO Act, Coimbatore in Cr.No.834/2020 on the file of the respondent police.

For Petitioner : Mr.A.Saranraj

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 18.05.2020 for the offences punishable under Section 366, 323, 506(ii) IPC, 5(1) r/w 6 of POCSO Act, in Crime No.834 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 17.05.2020 at about 6.30 p.m. the minor daughter of the defacto complainant who had gone to the tuition had not returned home. Based on the complaint given by the defacto complainant, the case was originally registered under the caption "girl missing" and thereafter, during the course of investigation, it was found that the petitioner had kidnapped the victim girl and had committed penetrative sexual assault repeatedly on her. Thereafter, the case was altered to Section 366, 323, 506 (ii) IPC, 5(1) r/w 6 of POCSO Act, and the petitioner was arrested and remanded to judicial custody on 21.05.2020.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is a coolie worker and he has not committed any offence as alleged by the prosecution. He would further submit that the victim girl befriended with the petitioner and since it was known to her parents, they have

abused her, thereby, the victim had eloped from the house and joined the petitioner. He would further submit that it is not a case where the petitioner had forcibly kidnapped the victim girl or committed forcible rape on her. He would further submit that the investigation has been completed and the final report has been filed and the petitioner is in custody for more than 165 days and that during pandemic situation the counsels are not allowed inside the prison to get instructions from the petitioner to conduct the case and thereby he would seek bail to engage counsels and conduct trial.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner is a married man, who had induced the victim minor girl and kidnapped her from the lawful custody of the defacto complainant and thereafter performed a child marriage and had committed penetrative sexual assault on the victim girl repeatedly. He would further submit that the girl was secured on 21.05.2020. He would further submit that the investigation has been completed and a final report has been filed and the case has been taken up in Spl.C.C.No.56 of 2020, on the file of the Special Court for Exclusive Trial of case under POCSO Act, Coimbatore. The case now stands posted to 09.11.2020 and there are totally 28 witnesses in this case.

5.Heard the learned Counsel on either side. Perused the F.I.R. and the statement recorded from the victim girl under Section 164 Cr.P.C. and also the other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration 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 Special Court for Exclusive Trial of Case under POCSO Act, Coimbatore 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 Sivagangai and report before the Sivagangai Town Police Station everyday at 10.30 a.m. other than the days prior to, subsequent to and the date of hearing in Spl.C.C.No.56 of 2020 on the file of the Special Court for Exclusive Trial of Case under POCSO Act, Coimbatore, 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/-

03/11/2020

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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASE UNDER POSCO ACT,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
EAST ALL WOMEN POLICE STATION,
COIMBATORE CITY.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

6 THE OFFICER INCHARGE,
SIVAGANGAI TOWN POLICE STATION,
SIVAGANGAI.

CC to M/S. A.SARANRAJ Advocate on payment of necessary charges
Sr.7228

CRL OP.15765/2020

Date :03/11/2020

RVR 04/11/2020



WEB COPY