

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.10.2020

Coram

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.O.P.No.15693 of 2020

Mohan

... Petitioner

-vs-

State Rep. by Inspector of Police,
All Women Police Station,
Salem,
Salem District.

... Respondent

Prayer: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.22/2019 pending on the file of the respondent.

For Petitioner : Mr.E. Kannadasan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

ORDER

(This case has been heard through video conference)

The petitioner who apprehends arrest at the hands of the respondent police for the offences punishable under Section 366 IPC originally and subsequently altered into 366 of IPC r/w section 6 of Protection of Children from Sexual Offence Act in Crime No.22 of 2019, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant Murugan is that the petitioner kidnapped his minor daughter and sexually assaulted her. Hence the complaint was registered.

3. The learned Counsel for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner and the daughter of the de-facto complainant were having a love affair and they belong to different communities. He would further submit that father of the victim girl has made an arrangement to perform marriage to her daughter with his relative in Salem. Since she did not like the groom she eloped from the house and thereafter, the petitioner has married the victim girl on 26.06.2019 at a temple in Hogenakkal

at Dharmapuri district. He would further submit that the victim girl has attained majority and 164 statement was also recorded, wherein, she has not stated anything adverse about the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner took the victim girl under an illegal custody for ten days and sexually assaulted the minor girl. He would further submit that the statement of the victim girl under Section 164 Cr.P.C., has also been recorded and the investigation is pending

5. Heard both sides and perused the FIR and the 164 statement.

6. Taking into consideration the facts and submissions of the learned Counsel and the statement recorded under section 164 Cr.P.C., this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions :

7. Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which a copy of this order is made ready, before the learned Judicial Magistrate No.I, Salem, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, for a like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent daily at 10.30 a.m. for a period of two weeks and thereafter every Monday at 10.30 a.m. until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-
06/10/2020

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,
NO.I, SALEM.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SALEM, SALEM DISTRICT.

CC to M/S. E.KANNADASAN Advocate on payment of necessary charges

CRL OP.15693/2020

Date :06/10/2020

cs 22/10/2020

WEB COPY