

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 16007 of 2020

L.Karthik

... Petitioner/Accused

Vs.

The State represented by, ... Respondent/Complainant
The Inspector of Police,
W-13, All Women Police Station,
Washermenpet, Chennai - 600 081.
Crime No. 3500/2020.

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 3500 of 2020, on the file of the respondent police.

For Petitioner : Mr.K.Manikandan

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 10.09.2020 for the offences punishable under Section **12 of the POCSO Act** in Crime No. 3500 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Kondammal is that her minor daughter/victim was found missing on 09.09.2020. Based on the complaint, a case was registered under the caption "Women Missing". Later during the course of the investigation, it came to light that the petitioner had kidnapped the minor daughter of the defacto complainant and had committed sexual assault on her minor daughter.

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 victim

was born on 25.10.2003 and that she is studying 12th standard in Chennai Girls School and that the petitioner and the defacto complainant were fell in love with each other. He would submit that coming to know of the affair between the petitioner and the victim girl, the mother of the victim girl had compelled her minor daughter to marry someone against her choice and thereby, the victim eloped from her house and joined with petitioner and the petitioner without understanding the consequences and rigors of the POCSO Act, had taken the victim to Periapalayam Temple, where, he had tied Tali and thereafter, they had stayed in their aunty's house and coming to know that a case was registered against them, they have surrendered before the police and the police has arrested the petitioner and handed over the custody of the minor girl to her mother.

4 The learned counsel for the petitioner would further submit that the medical examination of the petitioner as well as the victim has been over and the statement under Section 164 Cr.P.C has also been recorded from the victim girl. He would further submit that during their stay at their aunty's house, the petitioner has not committed any sexual assault on the victim girl and it is also confirmed by the statement recorded from the victim girl under Section 164 Cr.P.C., wherein, the victim has stated that the petitioner had hugged and kissed her and that there is no allegation of any sexual assault. He would further submit that the petitioner was arrested on 11.09.2020 and that he is in custody for a month. Hence, he prays to grant bail to the petitioner.

5 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the minor daughter of the defacto complainant and took her to a temple and tied tali. Thereafter, the petitioner has taken the victim girl to his aunty's house, where, they stayed for a night and next day, he was arrested. Further, he would submit that the statement under Section 164 Cr.P.C., has been recorded from the victim girl, wherein, she has stated that the petitioner had hugged and kissed her and there is no allegation of sexual assault. He would further submit that the victim is now in the custody of the defacto complainant. However, he opposed to grant bail to the petitioner.

6 Heard both the learned counsels and perused the statement recorded under Section 164 Cr.P.C.

7 Taking into consideration the facts and submissions made by the leaned counsel and considering the period of incarceration by the petitioner from 10.09.2020 and also considering the statement recorded from the victim girl under Section 164 Cr.P.C, 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 Special Court for Exclusive Trial of cases under POCSO Act at Chennai 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 shall report before respondent police every day at 10.30 a.m., for a period of two weeks and thereafter every Monday and Friday 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;

(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.

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

-sd/-
09/10/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT AT CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
TIRUVALLUR DISTRICT.

4 THE INSPECTOR OF POLICE,
W-13 ALL WOMEN POLICE STATION,
WASHERMENPET, CHENNAI-600 081.

+1 CC to M/S.K.MANIKANDAN Advocate on payment of necessary
charges SR.NO.6787

CRL OP.16007/2020

Date :09/10/2020

TA-12/10/2020



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