

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.10.2020

CORAM :

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

CRL.O.P.No.16379 of 2020

Praveen

... Petitioner

Vs.

State Rep.by
Inspector of Police,
Voimedu Police Station,
Nagapattinam Dist.
(Crime No.795/2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.795 of 2020 on the file of the Inspector of Police, Voimedu Police Station.

For Petitioner : Mr.A.Mohamed Ismail

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.07.2020 for the offences punishable under Sections 147, 148, 341, 294(b), 326, 506(ii), 307 of IPC and Section 12 of POCSO Act, in Crime No.795 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution as per the defacto complainant viz. Priya is that on 20.07.2020 while her husband Veeraiyan had returned in his two wheeler along with his friend, four persons waylaid him under the guise of asking for a way and assaulted him with wooden logs and machetes. When her husband attempted to prevent the attack, his middle finger got cut and fell down in the same place and thereafter, her husband was admitted in the hospital for treatment. During the course of investigation, the fact came to light that the 1st accused viz. Palanivel had misbehaved with his minor daughter who is aged about 7 years, in respect of which, a complaint has been given against him and in order to take vengeance, the petitioner along with other accused waylaid the husband of the defacto complainant and assaulted him.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since he happens to be the relative of the 1st accused in this case. He would further submit that the 1st accused in this case

has been arrested and he has been detained under Act 14 and the respondent has also completed the investigation and final report has been filed before Mahila Court, Nagapattinam. He would further submit that as far as this petitioner is concerned, he is alleged to have present along with the 1st accused in this case and other than that, no specific overt act has been attributed to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that A1 one Palanivel in this case has sexually assaulted the minor daughter of the defacto complainant, who is aged about 7 years and when the defacto complainant had given a complaint against him, as retaliation, the petitioners have assaulted the husband of the defacto complainant. He would further submit that A1 has been arrested and he has been detained under Act 14, He would further submit that the investigation is completed and final report has been filed before the Mahila Court, Nagapattinam on 29.09.2020. He would further submit that as far as this petitioner is concerned, he along with other accused, waylaid the husband of the defacto complainant and assaulted him.

5.Heard the learned counsel on either side. Perused F.I.R. and 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 from 23.07.2020, this Court is inclined to grant bail to the petitioners 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 The Sessions Court (Special Court for POCSO Act), Nagapattinam, 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 report before the Mahila Court, Nagapattinam at 10.30 a.m. on all working days 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/-

15/10/2020

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 SESSIONS COURT
(SPECIAL COURT FOR POCSO ACT),
NAGAPATTINAM.

2 THE MAHILA COURT,
NAGAPATTINAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,
VOIMEDU POLICE STATION,
NAGAPATTINAM DISTRICT.

5 THE OFFICER INCHARGE,
SUB JAIL, NAGAPATTINAM

CC to M/S A.MOHAMED ISMAIL Advocate on payment of necessary charges

CRL OP.16379/2020

Date :15/10/2020

RVR 16/10/2020

<https://hcservices.ecourts.gov.in/hcservices/>