

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 16.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 16485 of 2020

Rajkumar

... Petitioner/Single Accused

Vs.

The State represented by,
The Inspector of Police,
Gingee Police Station, Villupuram District.
(Crime No. 2579 of 2020) ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 2579 of 2020, on the file of the respondent police.

For Petitioner : Mr.C.Prabakaran

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 05.08.2020 for the offences punishable under Sections 366(A) of IPC, 5(1), 6 of POCSO Act, 2012, Section 9 of Child Marriage Act, 2006, in Crime No. 2579 of 2020, on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant Geetha is that the petitioner had kidnapped her minor daughter viz., Sneha, performed child marriage with her and had also committed repeated penetrative sexual assault on the victim girl. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person, he belongs to the Narikuravar community and that the petitioner had developed friendship with the victim girl, who also belongs to the same community and hence it was objected by the mother of the victim,

both of them eloped from the house and they have got married in a temple. Coming to know that a case was registered, the petitioner and the victim girl have returned back. He would submit that the petitioner belongs to Narikuravar community and that he had taken the victim girl without understanding the rigours of POCSO Act and the consequences thereon. He would submit that victim has been secured and handed over to her parents. He would submit that the investigation is completed and the charge sheet has also been filed and thereby, he would seek bail.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had kidnapped the minor girl, tied thali around her neck and thereafter, he had committed repeated penetrative sexual assault on her. He would submit that the petitioner is also a married man and his wife has left him. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C, investigation has been completed and that the final report has also been filed before the learned Mahila Court, Villupuram and same has not been taken on file. Hence, he opposed to grant bail to the petitioner.

5 Heard both the learned counsels and perused the materials placed on record including statement recorded under Section 164 Cr.P.C from the victim girl.

6 Taking into consideration of the facts and circumstance of this case and also considering the fact that the petitioner is in jail from 05.08.2020, 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 Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram 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 the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram. on all working days 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
16/10/2020

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 JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, VILLUPURAM.

2 THE JAILER,
SUB JAIL, GINGEE.

3 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
GINGEE POLICE STATION,
VILLUPURAM DISTRICT.

+1CC to M/S.C.PRABAKARAN Advocate on payment of necessary charges SR NO.6983

CRL OP.16485/2020

Date :16/10/2020