

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. 16467 of 2020

Mahalakshmi

... Petitioner/2nd Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Nannilam, Thiruvarur District.
Crime No.11 of 2020

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 11 of 2020, on the file of the respondent police.

For Petitioner : Mr.Swami Subramanian

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 27.08.2020 for the offences punishable under Section 7 r/w. 8, 8 r/w 17 of Protection of Children from Sexual Offences Act, 2012, in Crime No. 11 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Basker is that his wife/petitioner herein viz., Mahalaskhmi had illicit intimacy with one Murugan, they were living together and the daughter of the defacto complainant was also living with them. Further allegation is that the victim girl had informed to the defacto complainant that the paramour of his wife has misbehaved with her. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and she has been falsely implicated in this case. He would submit that there was a matrimonial dispute between the petitioner and her husband Basker and that they were living separately. He would submit that the first accused, who is related to the petitioner, was helping to the petitioner and thereby, a false complaint has been given by the defacto complainant through her daughter as if the first accused has misbehaved with her. He would submit that the statement under Section 164 Cr.P.C has been recorded from the victim girl, wherein, she had stated that A1 had only misbehaved with her and that there is no allegation of any penetrative sexual assault. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner and the defacto complainant are living separately and the daughter of the petitioner was living with her. He would submit that the petitioner had developed illicit intimacy with one Murugan and that they were living together, while so, on 23.08.2020, the first accused/ Murugan has misbehaved with the daughter of the defacto complainant. He would submit that the statement under Section 164 Cr.P.C has been recorded from the victim girl, wherein she had stated that A1 had misbehaved with her and the petitioner herein had prevented her from giving the complaint against the said Murugan. 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 27.08.2020, 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 District Munsif cum Judicial Magistrate Nannilam, Thiruvarur District 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 everyday 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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
NANNILAM, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
TIRUCHIRAPALLI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NANNILAM, THIRUVARUR DISTRICT.

CC to Mr.Swami Subramanian Advocate on payment of necessary charges

CRL OP.16467/2020

Date :16/10/2020