

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

CORAM :

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

CRL.O.P.No.16691 of 2020

SHANMUGASUNDARAM

... Petitioner

Vs.

The State rep by
Inspector of Police,
All Women Police Station,
Vedaranyam.
(Crime No.07 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime.No.7/2020 on the file of the Inspector of Police, All Women Police Station, Vedaranyam.

For Petitioner : Mr.S.Conscious Ilango

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 02.10.2020 for the offences punishable under Section 5(1), 6, 17, 18 of POCSO [Amendment] Act, 2019 and u/s 506[i], 376 (2)(j) of IPC, in Crime No.07 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant, the victim girl is that she is aged about 16 years and that her father is working as a watchman and her mother is working in a mess run by this petitioner. The further allegation is that since her mother was not well, the victim had gone to work in the mess of the petitioner, at that time, the petitioner had hugged and kissed her and when the same was informed to one Durga Devi wife of Aravindhan, the said Durga Devi and her husband had taken her to a Poultry farm run by one Mr.R.Vijayan / A3 and later the said Vijayan had told her that he was in love with her and had committed sexual intercourse with her and taken that in a mobile phone and later he threatened her that the video would be circulated in the social media and compelled her to have sexual intercourse repeatedly. Since the said Vijayan / A1 had continued his threatening and repeatedly committed the penetrative sexual assault, the victim minor girl gave a complaint before the respondent police.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is a senior citizen and the allegations are only against M.R.Vijayan / A3 in this case, who is stated to have had sexual intercourse with the victim girl and videographed the same and threatened her. He would further submit that even as per the F.I.R., the petitioner is alleged to have hugged and kissed the victim girl and other than that no other allegations are made out against him. He would further submit that the other accused have been arrested and remanded to judicial custody and the petitioner is in custody from 02.10.2020,

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner is the owner of the Mess. The mother of the victim was working in the mess run by this petitioner and when she was unable to go to the mess, the victim girl would go to the mess in her mother's place, at that time, the petitioner had hugged and kissed her. When the same was disclosed to her neighbour one Durga Devi, wife of Aravindhnan, the said Aravindhnan disclosed the same to one M.R.Vijayan / A3. Taking advantage of the same, the said Vijayan had sexual intercourse with the victim girl and also taken video to threaten her and committed the penetrative sexual assault on the victim minor girl repeatedly. However, the allegation against this petitioner is that the petitioner had hugged and kissed the victim girl.

5.Heard the learned Counsel on either side. Perused the F.I.R. and also the 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, 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 Special Court Under 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 stay at Trichy and report before the Trichy Cantonment Police Station 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;

(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/-

03/11/2020

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 SPECIAL COURT UNDER POCSO
ACT, NAGAPATTINAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE OFFICER INCHARGE,
TRICHY CANTONMENT POLICE STATION, TRICHY

4 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VEDARANYAM.

5 THE OFFICER INCHARGE,
SUB JAIL, PORYAR, NAGAPATTINAM.

CC to M/S.S.CONSCIOUS ILANGO Advocate on payment of necessary charges

CRL OP.16691/2020

Date :03/11/2020

RVR 04/11/2020