

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.11.2020

CORAM :

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

CRL.O.P.No.17127 of 2020

Jeevanantham

... Petitioner

Vs.

State Rep by:-

The Inspector of Police,
All Women Police Station,
Thudiyalur, Coimbatore District.
(Crime No.18 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.18 of 2020 on the file of the respondent police.

For Petitioner : Mr.C.Ramkumar

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 15.08.2020 for the offences punishable under Sections 5(1), (j) (ii) r/w 6 of POCSO Act, in Crime No.18 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the de facto complainant is that the accused induced her on false promise of marrying her and committed sexual intercourse with her, due to which, she became pregnant. Later, the accused refused to marry her stating that she belongs to different community. Hence, this complaint.

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 and the victim girl were having love affair and without understanding the rigors of POSCO and consequences, they had physical affair, due to which, the victim became pregnant. He would submit that the petitioner was prepared to marry the victim girl, whereas, the parents of the petitioner and the parents of the victim girl refused for marriage. He would further submit that the petitioner is even prepared to marry the victim girl, when she attains majority and the medical examination in respect of the victim and the petitioner have been completed and the statement has also been recorded from the victim under Section 164 Cr.P.C. He would submit that it is not a case of forcible rape and he reiterated that the petitioner is prepared to

marry the victim girl, when she attains majority. He would further submit that the petitioner was arrested on 15.08.2020 and he is in custody for more than 87 days. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose the grant of bail stating that the petitioner induced the victim girl and committed penetrative sexual assault on her, due to which, she became pregnant. Thereafter, the father of the petitioner refused to agree for marriage. He would further submit that the victim is pregnant by five months.

5. At this juncture, the learned counsel for the petitioner would submit that the victim is running short of five months to attain majority.

6. Heard the learned counsel and perused the materials available on record.

7. Taking into consideration the facts and submissions made by the learned counsels and also 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 for Exclusive Trial of Cases under POCSO Act, Coimbatore, 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 respondent police daily 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

(h) 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/-

10/11/2020

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 FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
COIMBATORE.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THUDIYALUR, COIMBATORE DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE

CC to M/S C.RAMKUMAR Advocate on payment of necessary charges
Sr.7507

CRL OP.17127/2020

Date :10/11/2020

RVR 11/11/2020

WEB COPY