

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

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

CRL.O.P.No.18036 of 2020

Selvam

... Petitioner

Vs.

State By

Inspector of Police,
W-24, All Woman Police Station,
Teynampet, Chennai.
(Crime No.836 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.836 of 2020 on the file of the Inspector of Police.

For Petitioner : Mr.R.Thamarai Selvan

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 18.09.2020 for the offences punishable under Sections 366 (A) IPC and 6 of POSCO Act, in Crime No.836 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Umavathy is that her minor daughter was found missing and based on the complaint given by the defacto complainant, a case was originally registered under Section girl missing and thereafter, the fact came to light that the petitioner had kidnapped her minor daughter and hence, it was altered to Section 366 (A) IPC and later the victim girl was secured. Thereafter, during the course of investigation, it was found that the victim girl was subjected to sexual assault and thereby, the case was altered to 6 of POSCO Act. The case was originally registered by the Inspector of Police, Teynampet Police Station and later it was transferred to W-24, All Women Police Station, Teynampet, Chennai.

3.The learned counsel appearing for the petitioner would submit that this is a second application for bail and the earlier petitioner was dismissed by this Court in Crl.O.P.No.16221 of 2020 by order dated 15.10.2020 on the ground that the petitioner was arrested recently and the statement of the victim girl had not been recorded. He would submit that a case of love affair has been falsely projected as a case of kidnap and sexual assault. The petitioner was arrested on 18.09.2020 and even after lapse of 90 days, the respondent have not filed the final report and thereby, the petitioner is entitled for statutory bail. He would further submit that the medical examination in respect of the petitioner as well as the victim girl is over. Hence, he would pray for grant of bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner has kidnapped the minor daughter of the defacto complainant and subjected her to penetrative sexual assault. He would further submit that the investigation had been completed and final report has not been filed so far.

5. Heard the learned Counsels and perused the statement of the victim girl recorded under Section 164 Crl.P.C.

6. Though the allegations are serious in nature, the respondent police have not filed the final report within the statutory period and thereby the petitioner is entitled for statutory bail under Section 167 (2) Cr.P.C. Hence, 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 IV Metropolitan Magistrate, Saidapet, Chennai, 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 the prison, shall report before the 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;

(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/-
17/12/2020

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 METROPOLITAN MAGISTRATE NO.IV,
SAIDAPET, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
W-24, ALL WOMEN POLICE STATION,
TEYNAMPET, CHENNAI.

+1CC to M/S.R.THAMARAISELVAN Advocate on payment of
necessary charges SR NO.8385

CRL OP.18036/2020

Date :17/12/2020

MK:18/12/2020