

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 17623 of 2020

Mathiyalagan

... Petitioner/Single Accused

Vs.

The State represented by,
The Inspector of Police,
Karumandurai Police Station,
Salem District.

(Crime No. 166 of 2020) ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 166 of 2020, on the file of the respondent police.

For Petitioner : Mr.W.Camyles Gandhi

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 07.07.2020 for the offences punishable under Section 5(1) r/w 6 of POCSO Act in Crime No. 166 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that as per the defacto complainant is that, on the false promise of marrying the victim girl, the petitioner had committed sexual intercourse with her and cheated her. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the victim girl is aged about 15 years and the petitioner is a Doctor and that they were having a love affair. Since the victim girl is a minor, the petitioner had stated that after attaining majority, he will marry the victim girl but the victim girl had demanded him to marry her immediately or otherwise she

will commit suicide. He would submit that the petitioner is suffering incarceration from 07.07.2020 and 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 had sexual intercourse with the victim girl on the false promise of marrying her. He would further submit that the petitioner is a doctor and the victim girl is aged bout 15 years and they were having a love affair. He would also submit that the charge sheet has also been filed in Spl.S.C.No.66 of 2020. Hence, he opposed to grant bail to the petitioner.

5.Taking into consideration of the facts and submissions made by the learned counsels and the petitioner is in judicial custody from 07.07.2020, 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 Judicial Magistrate No.II, Athur 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 Trial Court on all hearing dates.

(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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
01/12/2020

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 JUDICIAL MAGISTRATE NO.II,
ATHUR.

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
KARUMANDURAI POLICE STATION,
SALEM DISTRICT.

+1CC to M/S W.CAMYLES GANDHI Advocate on payment of
necessary charges SR NO.7857

CRL OP.17623/2020

Date :01/12/2020

MK:03/12/2020