

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.17535 of 2020

Sathya @ Sathyan

... Petitioner

Vs.

The State rep. By
The Inspector of Police
W-32 All Women Police Station
Madipakkam
Chennai
Crime No.16 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.16 of 2020 on the file of the respondent police.

For Petitioner : Mr.K.Thenrajan

For Respondent : Mr.Balamurugane
Public Prosecutor
Puducherry

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.09.2020, for the alleged offence under Section 6 of POCSO Act, in Crime No.16 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner who is a Call Taxi driver was friendly with the victim girl and later, he developed love affair with her, who is aged 17 years and in the pretext of marrying her, he had committed penetrative sexual assault on her. The de-facto complainant, who is the father of the victim girl had lodged a complaint against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner and the victim girl were in love with each other. He would further submit that since there was difference in the community and social status, the parents of the victim girl have objected for their love affair and since the parents of the victim girl made arrangements for marriage to the victim girl against her wishes, the victim asked the petitioner to take her

with him, otherwise she will commit suicide and with no other option, the petitioner had taken the victim girl to a place and some nexus has been committed in the love affair. He would further submit that initially, the victim girl was custody of the petitioner and now, the petitioner is willing to take the victim girl and thereafter, the victim girl was sent back to her native and now she is with her grand parents.

4. The learned Public Prosecutor, Puducherry would submit that the victim girl is a minor girl, who is aged 17 years and the petitioner is aged 22 years, and he is a Call Taxi Driver. The allegation is that the petitioner had taken the victim girl under the guise of marrying her and had physical relationship with her. The de-facto complainant, who is the father of the victim girl lodged a complaint against the petitioner. After the complaint, the victim girl had gone to her native at Southern District and she had not appeared before the police and for the medical examination as well as recording the statement under Section 164 of Cr.P.C. He would further submit that investigation is still in progress. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard both sides.

6. Taking into consideration the facts and circumstances of the case and also the period of incarceration undergone by the petitioner and the fact that the petitioner and the victim girl were in love with each other, some nexus has been committed by both of them, 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 his executing his bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, before the **learned Sessions Judge, Special Court for Exclusive trial of cases under POCSO Act, Chengalpattu (FAC)**, and on further condition that:

[b] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioner shall report before the respondent police daily at 10.30 a.m for a period of two weeks and thereafter, as and when required for interrogation

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[e] the petitioner shall not abscond either during investigation or trial.

[f] On breach of any of the aforesaid conditions, the learned 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]**.

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT,
CHENGALPATTU (FAC).

2 THE INSPECTOR OF POLICE,
W-32, ALL WOMEN POLICE STATION,
MADIPAKKAM, CHENNAI.

3 THE PUBLIC PROSECUTOR
PUDUCHERRY.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE OFFICER INCHARGE,
SUB JAIL, CHENGALPATTU.

+1 CC to M/S.K.THENRAJAN Advocate on payment of necessary charges 7889

CRL OP.17535/2020

Date :01/12/2020

MN-03/12/2020

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