

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

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

CRL.O.P.No.18229 of 2020

Vijayakumar

... Petitioner

Vs.

State rep.by

The Inspector of Police,
All Women Police Station,
Tiruvavur

(Crime No.19 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.19 of 2020, on the file of the Inspector of Police, All Women Police Station, Tiruvavur.

For Petitioner : Mr.N.Palanivel

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 11.09.2020 for the offences punishable under Sections 10, 9(m) of Protection of Children from Sexual Offences Act, 2012, in Crime No.19 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner had committed sexual assault on the minor victim girl, aged about 14 years. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would further submit that the petitioner and the victim girl are from the same village from different communities and that they fell in love with each other, thereby a false complaint has been given against the petitioner. He would further submit that the petitioner was arrested on 11.09.2020. He would further submit that the medical examination in respect of the petitioner and the victim has been over and even as per the statement recorded

under Section 164 Cr.P.C. from the victim girl, she has only alleged that there was sexual assault and there was no penetrative sexual assault on her. He would further submit that the medical examination also suggests that the victim has not been subjected to the sexual intercourse and that there was no injuries found on the victim. He would further submit that the petitioner is in custody from 11.09.2020 and the major part of the investigation is also over.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner had sexually assaulted the victim girl when she had gone to attend nature call behind her house. Investigation is pending.

5.Heard the learned counsel on either side. Perused the materials placed on record including the statement recorded under Section 164 Cr.P.C.

6.Taking into consideration of the facts and circumstances and also considering 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 learned Sessions Judge, Fast Track Mahila Court, Tiruvarur, 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 Thanjavur and report before the Ammapettai Police Station everyday at 10.30 a.m. until further orders. The petitioner shall not enter the jurisdictional limits of the respondent police.

(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/-

19/11/2020

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 SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
TIRUARUR.

2 THE JAILER,
DISTRICT PRISON,
NAGAPATTINAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVARUR.

5 THE OFFICER INCHARGE,
AMMAPETTAI POLICE STATION,
THANJAVUR.

+1CC to Mr.N.Palanivel Advocate on payment of necessary charges SR NO.7653

CRL OP.18229/2020

Date :19/11/2020