

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.17718 of 2020

Arunkumar @ Arun

... Petitioner

Vs.

STATE REP.BY

The Inspector of Police,  
All Women Police Station,  
Sriperumbudur,  
Kancheepuram District.  
(Crime No.12 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.12 of 2020, pending investigation on the file of the respondent Police.

For Petitioner : Mr.G.Balamanikandan

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 23.09.2020 for the offences punishable under Section 363, 366, 376(2)(n) IPC r/w Section 4 & 6 of POCSO Act, in Crime No.12 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the victim minor girl is that the petitioner who is her cousin, induced her saying that he was in love with her and that on 25.11.2019 on the promise of marrying her had committed penetrative sexual assault on her and thereafter once again on 22.01.2020 he had committed sexual assault. Hence, the compliant.

3.The learned counsel appearing for the petitioner would submit that the petitioner is aged about 21 years and the victim girl is his first cousin (daughter of his Aunt). The petitioner and the victim grew up together and fell in love with each other. He would further submit that the petitioner without understanding the rigors and

consequences of the POCSO Act, had consensual sexual intercourse with the victim girl, due to which, she became pregnant. When they found that the victim was pregnant, she was taken to the hospital where she was diagnosed that she was having tubal / ectopic pregnancy and hence her pregnancy was aborted. He would further submit that the parents of the petitioner and the mother of the victim have given their consent for the marriage between the petitioner and the victim. He would further submit that the victim was born on 22.10.2002 and as on date, she has attained majority and that the arrangements are being taken by the elders in both the families to perform the marriage between them. He would further submit that the major part of the investigation is over and the medical examination in respect of the petitioner and the victim girl is also completed and the statement under Section 164 Cr.P.C. has also been recorded from the victim girl.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner, who is the cousin of the victim girl, on the promise of marrying her had committed penetrative sexual assault on her, due to which, she became pregnant and later it was aborted. He would further submit that statement under Section 164 Cr.P.C. has been recorded from the victim girl and the date of birth of the victim girl is 22.10.2002.

5.Heard the learned counsel on either side. Perused the materials placed on record including statement recorded under Section 164 Cr.P.C. and birth certificate of the victim girl.

6.Taking into consideration of the facts and circumstances and submissions made by the learned counsels 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 Special Court for Exclusive Trial of cases under POCSO Act, Chengalpattu (FAC), 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 everyday at 10.30 a.m. for a period of two weeks and thereafter on every Monday 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/-

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 SPECIAL COURT FOR  
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,  
CHENGALPATTU [FAC]

2 THE SUPERINTENDENT,  
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE  
ALL WOMEN POLICE STATION,  
SRIPERUMBUDUR,  
KANCHEEPURAM DISTRICT.

+1 CC to Mr.G.Balamanikandan Advocate on payment of necessary charges SR.No.7654

CRL OP.17718/2020

Date :19/11/2020