

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.18178 of 2020

ANTONY

... Petitioner

Vs.

The State rep.by its
THE INSPECTOR OF POLICE,
W-26 All women Police Station,
Chennai.
(Crime No.841 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.841 of 2020, on the file of the respondent Police.

For Petitioner : Mr.P.Surendran

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 22.08.2020 for the offences punishable under Section 366(A) IPC R/w 6 of Protection of Children from Sexual Offences Act 2012 in Crime No.841 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz Mohana is that the petitioner had kidnapped her minor daughter in his two wheeler bearing Reg.No.TN05BQ0157 on 11.08.2020 and later during the course of investigation, it came to light that the petitioner had kidnapped her and had also committed sexual assault on her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner and the victim girl live in the nearby area and they are known to each other for several years and since their affair came to the knowledge of the parents of the victim girl, they objected the same and were also making arrangements to conduct marriage with some one against her wishes, hence, the victim with an intention to join the petitioner had eloped with him. He would further submit that when the petitioner came to know about the registration of the case, he along with the victim girl surrendered before the respondent police and thereafter, the petitioner was arrested and remanded to judicial

custody. He would further submit that the petitioner is a young person of 20 years and that without understanding the rigors and consequences of POCSO Act, he had committed the offence. He would further state that the petitioner understands from the statement recorded under Section 164 Cr.P.C. that the victim girl has not stated anything against him as if he had sexually assaulted her and she had also stated that she accompanied the petitioner voluntarily. He would further submit that the petitioner was arrested on 22.08.2020. He would further submit that the medical examination in respect of the petitioner and the victim girl is over and he is in judicial custody for more than 85 days.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner has kidnapped the minor victim girl and committed sexual assault on her. He would further submit that the victim girl has not stated anything against the petitioner in her 164 Cr.P.C. Statement.

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

6.Taking into consideration of the facts 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, 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 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,
CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-26, ALL WOMEN POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

CC to M/S.P.SURENDRAN Advocate on payment of necessary charges
Sr.7677

CRL OP.18178/2020

Date :19/11/2020

RVR 20/11/2020