

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

Crl.O.P.No.18303 of 2020

A.Illayaraja

... Petitioner

Vs.

The State

Rep. by

The Inspector of Police

Sethiyathop Police Station

Cuddalore District

(Crime No.59 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.59 of 2020 on the file of the Respondent.

For Petitioner : Mr.K.Jayabalan

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

(This Case has been heard through video conferencing)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 366 IPC and under Section 5(1) r/w 6 of POCSO Act, in Crime No.59 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution is that the minor daughter of the defacto complainant was kidnapped by Jayavel and thereafter he had committed repetitive penetrative sexual assault on the victim girl. Based on the complaint, a case was registered and A1 was arrested.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since the petitioner happened to be the friend of A1. He would further submit A1 in this case has been arrested and enlarged on bail. The specific overt act against this petitioner is that he is being the friend of A1 has given accommodation to A1 and the victim girl. He would further submit that A1 and the victim girl came to his house and that the petitioner thought that they are adults. gave them accommodation, other than that he has not committed any offence.

4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that the petitioner is A3, who is a friend of A1. A1 had kidnapped the victim minor girl and gone to the house of the petitioner and that the petitioner had given them accommodation. He would further submit that A1 has been arrested and enlarged on bail. He would further submit that there is no sexual assault by the petitioner on the victim girl.

5. Heard the learned counsel on either side. Perused F.I.R. and all the materials placed on record.

6. Taking into consideration of the facts and circumstances and also considering the fact that the petitioner has only provided accommodation, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance within a period of fifteen days from the date on which the order copy is made ready, before the learned Judicial Magistrate, Tittagudi, Cuddalore District, on further condition that the petitioners shall execute a separate bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, with two sureties each for the like sum to the satisfaction of the respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which the petition for anticipatory bail shall stand dismissed automatically;

[b] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the respondent/police 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 everyday at 10.30 a.m. until further orders.

[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.

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

-sd/-
21/12/2020

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,
TITTAGUDI

2 THE CHIEF JUDICIAL MAGISTRATE
CUDDALORE DIST. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
SETHIYATHOP POLICE STATION,
CUDDALORE DIST.

+1 CC to M/S.K.JAYABALAN Advocate on payment of necessary charges
SR.NO.8724

CRL OP.18303/2020

Date :21/12/2020

GKS:04/01/2021