

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.19120 of 2020

K.Kumarasamy

.. Petitioner

Vs.

The State rep. By
The Inspector of Police
W-13, All Women Police Station
Washermenpet
Chennai.
Crime No.17 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.17 of 2020 pending investigation on the file of the respondent.

For Petitioner : Mr.A.Parthiban

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 10.10.2020, for the alleged offence under Section 341 IPC and Section 10 read with Sections 9(m) and 12 of POCSO Act 2012, in Crime No.17 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 09.10.2020, at around 8.00 a.m, when the de-facto complainant's minor daughter, who is aged 11 years went to the vegetable shop in the parallel street in order to buy coriander leaves, the petitioner way laid the victim and acted abnormally by touching her and pinching her private parts and based on the complaint given by the de-facto complainant, a case has been registered against the petitioner.

3. The learned counsel 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 is aged

67 years and he is with cataract problem with blurred vision. He would further submit that the petitioner is in custody from 10.10.2020 and hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that a statement has been recorded from the victim girl under Section 164 of Cr.P.C. and he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and also the period of incarceration undergone 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 his executing 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 Exclusive Trial of POCSO Cases, Chennai, City Civil Court Building**, 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 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.

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

-sd/-

04/12/2020

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 EXCLUSIVE TRIAL OF POCSO CASES,
CITY CIVIL COURT BUILDING,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
W-13 ALL WOMEN POLICE STATION,
WASHERMENPET, CHENNAI.

+1 CC to M/S.A.PARTHIPAN Advocate on payment of necessary charges SR.No 7926

CRL OP.19120/2020

Date :04/12/2020

MN-07/12/2020

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