

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No. 19019 of 2020

Sivankalai

... Petitioner/Accused

Vs.

The State represented by, ... Respondent/Complainant
The Sub Inspector of Police,
Walajapet Police Station,
Vellore District.
Crime No.801 of 2020

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C.
to enlarge the petitioner on bail in Crime No.801 of 2020, on the
file of the respondent police.

For Petitioner : Mr.R.Sasikumar

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 20.09.2020 for the offences punishable under Sections
448, 376 and 307 of I.P.C., in Crime No. 801 of 2020 on the file of
the respondent police, seeks bail.

2.The case of the prosecution as per the defacto
complainant viz., Mageshwari, is that on 19.09.2020 at about 03.30
a.m., while she was sleeping in her house, the petitioner, who is a
neighbour, had trespassed into her house and forcibly had sexual
intercourse with her. Hence, the complaint.

3.The learned counsel appearing for the petitioner would
submit that the petitioner is an innocent person and he has been
falsely implicated in this case. He would submit that the petitioner
is the neighbour of the defacto complainant and that the petitioner
is aged about 55 years and the defacto complainant is aged about 68
years. He would further submit that the petitioner is suffering
incarceration from 20.09.2020. Hence, he prays to grant bail to the
petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that on 19.09.2020 at about 03.30 a.m., while the defacto complainant was sleeping in her house, the petitioner had trespassed into her house and forcibly had sexual intercourse with her. He would submit that the petitioner is aged about 55 years and the defacto complainant is aged about 68 years. He would further submit that the statement under Section 164 Cr.P.C. has been recorded from the victim and medical examination of the victim has also been completed. Hence, he opposed to grant bail to the petitioner.

5.Taking into consideration of the facts and circumstances of the case and submissions made by the learned counsels and the fact that the petitioner is in judicial custody from 20.09.2020, 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 Judicial Magistrate No.II, Walaja 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 shall report before respondent police everyday 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;

(h) 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];

(i) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

6.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 JUDICIAL MAGISTRATE,
NO.II, WALAJA.

2 THE CHIEF JUDICIAL MAGISTRATE,
VELLORE [FOR INFORMATION].

3 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
WALAJAPET POLICE STATION,
VELLORE DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges SR.No 7922

CRL OP.19019/2020

Date :04/12/2020

WEB COPY

MN-07/12/2020