

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

Cr1.O.P.No.19343 of 2020

Ayyanar

... Petitioner

Vs.

State rep. by
The Inspector of Police
All Women Police Station
Hosur
Krishnagiri District
(Crime No.19 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.19 of 2020 on the file of the Respondent.

For Petitioner : Mr.A.Balamurugan

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 363, 366, 366A IPC r/w. Section 5(1), 6, 17 and 18 of POCSO Act, 2012, in Crime No.19 of 2020, on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the defacto complainant viz. Sundarajan is that his minor daughter, who is aged about 17 years, during the lockdown period became friendly with the son of the petitioner viz. Prasanth and the said Prasanth had kidnapped his minor daughter. The further allegation is that when the defacto complainant approached the petitioner and informed him that his son had kidnapped his minor daughter and a complaint will be lodged against him, at that time, the petitioner assured him that his daughter will be sent back to him soon, but his daughter did not return home as assured by the petitioner. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since he happened to be the father of the main accused, who is alleged to have kidnapped the victim girl. He would further submit that the

petitioner is working as a driver and the specific allegation as against the petitioner is that when the defacto complainant informed him about the kidnap of his minor daughter by his son, the petitioner undertook to bring back his daughter and son and thereafter he had failed to produce them. He would further submit that the victim has been secured and she has also been subjected to the medical examination and a statement under Section 164 Cr.P.C. has been recorded from the victim by the learned Magistrate and she has not stated anything against the petitioner. He would further submit that the co-accused, the friend of A1, who had arranged a car to drop A1 and victim at bus stop, has been granted bail by this Court vide order dated 18.12.2020 in CrI.O.P.No.19154 of 2020. He would further submit that the petitioner was not aware of the fact that his son and the victim are having affair and he has been unnecessarily harassed and roped in this case.

4. The learned Additional Public Prosecutor appearing for the respondent police would vehemently oppose stating that A1 is the son of the petitioner. The defacto complainant, after coming to know of the fact that A1 had kidnapped his minor daughter, had informed the petitioner and the petitioner also assured him to bring back his daughter and thereafter, the victim was not handed over to him, other than that, there is no other allegations as against the petitioner.

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 is only the father of A1 and there is no sexual harassment reported against him, 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-II, Hosur, on further condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), 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 on every Monday and Saturday 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-II, HOSUR

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

3 THE PUBLIC PROSECUTOR, HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
HOSUR, KRISHNAGIRI DIST.

+1 CC to M/S.A.BALAMURUGAN Advocate on payment of necessary charges SR.NO.8578

CRL OP.19343/2020

Date :21/12/2020

GKS:04/01/2021