

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.12.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.19131 of 2020

Ajith

...Petitioner

Vs.

The State rep. by
The Inspector of Police
Vellavedu Police Station
Thiruvallur District
Crime No.1545 of 2020

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the event of his arrest in Crime No.1545 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences under Section 366(A) of IPC r/w Sections 5(1) and 6 of Protection of Children Sexual Offences Act 2012, in Crime No.1545 of 2020 on the file of the respondent police, seeks anticipatory bail.

2. The case of the prosecution as per the de-facto complainant viz., Sankar is that on 17.06.2020, his minor daughter namely xxx was kidnapped by A1, viz., Naveen Kumar with an intention to marry her and thereafter, he had committed penetrative sexual assault on her. Initially, the case was registered under the caption "Girl Missing" and later, altered to 366(A) of IPC and Sections 5(1) and 6 of Protection of Children Sexual Offences Act 2012.

3. The learned counsel for the petitioner would submit that the petitioner is the friend of A1 and A1 borrowed the two wheeler of the petitioner and without the knowledge of the petitioner, he had kidnapped the victim girl in his two wheeler.

He would further submit that including A1, five other accused have been arrested and all of them have been granted bail. He would further submit that the role of the petitioner is that he had only helped the petitioner by giving his two wheeler, other than that, there is no allegation against him. He would further submit that the victim has been examined under Section 164 of Cr.P.C and in the statement, she has not stated anything about the petitioner. Therefore, he prays to grant anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that there are totally seven accused in this case and the petitioner is added as A3. He would further submit that the main accused (A1) viz., Naveen Kumar had kidnapped the minor daughter of the de-facto complainant, who is aged 17 years and committed penetrative sexual assault on her. He would further submit that the petitioner is friend of A1 who had lent his two wheeler to A1 to kidnap the petitioner. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. Heard both sides and perused the FIR.

6. Taking into consideration the facts and circumstances of the case and also the submissions made by the learned counsels and the allegation against the petitioner is that he had only helped A1 by giving his two wheeler, this Court is inclined to grant anticipatory bail to the petitioner, subject to the following conditions:

a) Accordingly, the petitioner is ordered to be released on bail, in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the **Mahila Court, Thiruvallur**, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, for a 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 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 for a period of two weeks and thereafter, as and when required for interrogation.

[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/-
22/12/2020

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 MAHILA COURT,
THIRUVALLUR.

2 THE INSPECTOR OF POLICE,
VELLAVEDU POLICE STATION,
THIRUVALLUR DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges SR NO.8634

CRL OP.19131/2020

Date :22/12/2020

MN-04/01/2021