

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2020

CORAM

THE HONOURABLE Mr. JUSTICE A. D. JAGADISH CHANDIRA

Crl.O.P.No.19152 of 2020

Vignesh @ Vikky

... Petitioner

Vs.

State by,

The Inspector of Police,
All Women Police Station,
Hosur, Krishnagiri District.

(Cr.No.19 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Crime No.19 of 2020 pending on the file of the respondent police.

For Petitioner : Mr.M.Jayachandran

For Respondent : Mr.T.Shunmugarajeswaran

Govt. Advocate (Crl.Side)

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 punishable under Sections 363, 366, 366(A) of IPC and subsequently altered into one under Section 363, 366, 366(A) of IPC and Section 5(1), 6, 17, 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 de facto complainant Sundarrajan is that his first daughter Sowbagyalakshmi was married to one Manivannan at Tirupattur and due to Corona Pandemic, his second minor daughter was staying with her sister in the in-laws house. At that time, she had developed friendship with the first accused Prasanth and coming to know of that, he had brought back his daughter to Hosur. While so, on 31.10.2020 his minor daughter

was found missing and they had enquired at Tirupathur in the first daughter's house and she was not found there. While so, on 31.10.2020, he received an information that his daughter was kidnapped by the first accused Prasanth and that they have enquired the father of Prasanth and he had informed that his son taken his daughter and that he would bring back his daughter. Later, he also came to know that the friends of the first accused namely Pirapanjan and Vignesh @ Vikky had sent his daughter and the first accused in a tourist car and despite the undertaking given by the father of the first accused, they have not brought back his daughter for the past 12 days and thereby, he had given a complaint. Originally, the case was registered for the offence under Sections 363, 366, 366(A) of IPC. Later, during the course of the investigation, the first accused and the victim were secured and the first accused was arrested and remanded to judicial custody. On further enquiry, it came to light that the first accused had committed penetrative sexual assault on the victim girl. The specific allegation against the petitioner is that he had engaged a car and sent the first accused and the victim to Krishnagiri and from there they went to Tuticorin by Bus.

3. The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case since the father of the victim suspected that the petitioner being the friend of the first accused, had helped him in kidnapping the victim girl. He would further submit that the allegation against the petitioner in the FIR, the petitioner is alleged to have engaged a car and given to the first accused and other than that, there is no allegation of sexual harassment against this petitioner. He would submit that the first accused has been arrested and the victim has also been secured. He would submit that the petitioner understands that the statement under Section 164 Cr.P.C has been recorded from the victim and as per the statement, the victim has stated that the petitioner and yet another friend had arranged a car and that the car driven by the first accused met with an accident. He would submit that the petitioner is unaware of the age of the victim, he was under the impression that the victim and the first accused are grown up and they are wilfully eloping from the home. He would submit that the victim had also stated that she had, on her own volition, accompanied the first accused and it is not the case where the petitioner and others forcefully kidnapped the victim. He would submit that the custodial interrogation may not be required in this case and hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner is the friend of the first accused Prasanth and the said Prasanth had kidnapped the minor daughter of the de facto complainant and had taken her to Tuticorin, where he had committed penetrative sexual assault on her. He would submit that the first accused taken the victim in a car and the said car met with an accident and thereafter, the

first accused called the petitioner and the petitioner and others arranged the tourist car for the first accused to kidnap the victim girl. He would submit that the first accused was arrested and remanded to judicial custody and hence, he opposed to grant anticipatory bail to the petitioner.

5. Heard the learned counsel on either side. Perused the materials available on record including the statement of the victim recorded under Section 164 Cr.P.C.

6. A perusal of the 164 Statement shows that while the first accused had taken the victim in a car and it had met with an accident near Krishnagir and thereby, the first accused had called this petitioner and one Pirapanjan, who had taken the victim and the first accused in a car and dropped them at Krishnagiri Bus Stand and also boarded them in the bus to Tuticorin.

7. Taking into consideration the facts and circumstances of the case and the submissions made by the learned Counsel and the fact that the victim has been secured and the petitioner is the friend of the first accused, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions:

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on their appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Fast Track Mahila Court, Krishnagiri, on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties, each 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:

[a] the petitioner and 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.

[b] the petitioner shall report before the respondent Police everyday at 10.30 a.m., until further orders;

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] 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].

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
18/12/2020

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 JUDGE,
FAST TRACK MAHILA COURT,
KRISHNAGIRI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
HOSUR, KRISHNAGIRI DISTRICT.

CC to M/S.M.JAYACHANDRAN Advocate on payment of necessary charges

CRL OP.19152/2020

Date :18/12/2020

MK:07/01/2021