

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.12.2020

CORAM :

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

CRL.O.P.No.19505 of 2020

Ramesh Amul

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
Marandahalli Police Station,
Dharmapuri District.
(Crime No.1212 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.1212 of 2020 on the file of the respondent police.

For Petitioner : Mr.B.Mohan

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 28.10.2020 for the offence punishable under Section 366(A), 363, 366 of IPC and Section 5(1), 6 of POCSO Act, in Crime No.1212 of 2020, seeks bail.

2. The case of the prosecution as per the defacto complainant Perumal is that he has got three minor daughters and his first minor daughter was kidnapped by the petitioner/Ramesh Amal and one Vadivel five months back and he had given a complaint to the police. The police had enquired both of them and since his daughter had agreed to go along with her parents, the earlier complaint was closed. While so, on 19.09.2020 at early hours at about 5 a.m., the defacto complainant's daughter had gone to attend nature's call and did not return home. Thereafter, on enquiry it came to know that the petitioner had kidnapped her based on which, the case was originally registered under Section 366(A) IPC. During the course of investigation the victim was secured on 12.10.2020 and it came to light that the petitioner tied Thali and committed penetrative sexual assault. Thereby, the offence was altered into Sections 363, 366 IPC and Section 5(1), 6 of POCSO Act 2012 and 9 of Prohibition of Child Marriage Act 2006.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. He would submit that the petitioner and the victim belong to the same village and they are friends and they had grown up together. The victim had a fight with her father and she gone to her grandmother's place at Agraharam. Whereas, a false complaint has been given by the father of the victim as if, the petitioner had kidnapped her based on which, the petitioner was arrested and the police recored the statement as if, the petitioner kidnapped and performed child married and committed penetrative sexual assault on the victim girl. He would submit that the medical examination in respect of the petitioner and the victim is over and he understands that the statement of the victim girl has been recorded by the learned Judicial Magistrate, Pennagaram, under Section 164 Cr.P.C. wherein, she has stated that she had fight with her father and went to her grandmother's place and that she has not stated anything against the petitioner as if, the petitioner performed child marriage with her and committed penetrative sexual assault on her. He would submit that on coming to know the registration of the complaint, the petitioner surrendered before the Judicial Magistrate, Dharmapuri and he was remanded to judicial custody on 28.10.2020 and that he has been in judicial custody for 55 days. Hence, he prays for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the minor daughter of the defacto complainant was found missing from his house on 19.09.2020 and the case was originally registered for offence under Section 366A. Thereafter, during the course of investigation, the victim was secured on 12.10.2020 and it came to light that the petitioner tied Thali and committed penetrative sexual assault on her. Thereby, the offence was altered into Sections 363, 366 IPC and Section 5(1), 6 of POCSO Act 2012 and 9 of Prohibition of Child Marriage Act 2006. While so, the petitioner surrendered before the Judicial Magistrate, Dharmapuri, on 28.10.2020. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C. However, she has not supported the case of the prosecution and that the investigation is pending.

5. Heard the learned Counsels and perused the materials placed on record including the statement of the victim girl recorded under Section 164 Cr.P.C.

6. Taking into consideration, the facts and circumstances of the case and the submissions of the learned Counsels and also considering the period of incarceration suffered 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 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 Sessions Judge, Fast Track Mahila Court, Dharmapuri, 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 on his release from prison shall stay at Tindivanam and report before the Town Police Station, everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police 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;

(g) 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];

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

-sd/-

21/12/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
DHARMAPURI

2 THE JUDICIAL MAGISTRATE,
DHARMAPURI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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4 INSPECTOR OF POLICE,
MARANDAHALLI POLICE STATION,
DHARMAPURI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM.

6 THE OFFICER INCHARGE,
TOWN POLICE STATION, TINDIVANAM

CC to M/S.B.MOHAN Advocate on payment of necessary charges
Sr.8527

CRL OP.19505/2020

Date :21/12/2020

RVR 22/12/2020



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