

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.12.2020

CORAM :

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

CRL.O.P.No.20130 of 2020

P.Karthik

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
W-3, All Women Police Station,
Chindaripet, Chennai District.
(Crime No.732 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.732 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Karthick Sevugapperumal

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 13.10.2020 for the offence punishable under Section 6 of POCSO Act, 2012, in Crime No.732 of 2020, seeks bail.

2.The case of the prosecution as per the defacto complainant Poovazhagi is that on 10.10.2020 at about 3.30 a.m. her minor daughter was found missing. Based on the the complaint, the case was originally registered under the caption "girl missing". Later, during the course of investigation, it came to light that the petitioner had kidnapped her daughter and committed penetrative sexual assault on her and thereby, the case was altered to one under Section 6 of POCSO Act and the petitioner was arrested on 13.10.2020.

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 victim girl was threatened by one Karan and she had informed the same to her mother. However, since, she did not take any action, the petitioner had questioned the said Karan and the petitioner was threatened by the said Karan. Subsequently, the said Karan also threatened the victim girl. Thereby, the victim girl came out from her house and asked the petitioner to take her somewhere and that she was in the petitioner's

house. Whereas, the mother of the victim girl given a false complaint as if, her daughter was missing. On coming to know the registration of the case, the petitioner surrendered before the respondent and also handed over the custody of the victim girl. Whereas, the case was registered for offence under POCSO Act. He would further submit that the victim on her own volition had come to the house of the petitioner and the petitioner had not kidnapped her. Further, the medical examination in respect of the petitioner as well as the victim girl is over and the petitioner understands that the statement of the victim girl has been recorded under Section 164 Cr.P.C. wherein, she has not supported the case of the prosecution. Hence, he prays for grant of bail.

4. The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner had kidnapped the minor daughter of the defacto complainant and committed penetrative sexual assault on her. He would submit that the case was registered on 10.10.2020 and the petitioner surrendered on the same day in the late night hours. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C. wherein, she has not alleged anything as if, the petitioner committed sexual assault on her.

5. Heard the learned Counsels and perused the materials placed on record including the statement recorded from the victim girl 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 Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, 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 the prison, shall report before the 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;

(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.

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

-sd/-

17/12/2020

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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT
CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

4 THE INSPECTOR OF POLICE,
W-3, ALL WOMEN POLICE STATION,
CHINDARIPET ,CHENNAI.

CC to M/S R.KARTHICK SEVUGAPPERUMAL Advocate on payment of
necessary charges Sr.8343

CRL OP.20130/2020

Date :17/12/2020

RVR 18/12/2020