

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.12.2020

CORAM :

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

CRL.O.P.No.20238 of 2020

K.Kaliraj

... Petitioner

Vs.

State rep by:

... Respondent

The Inspector of Police,
W 26, All Women Police Station,
Ashok Nagar,
Chennai.
(Crime No.713 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.713 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.Anilan

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 23.10.2020 for the offence punishable under **Sections 366 (A) of IPC r/w Section 6, 5(1) of POCSO Act, 2012, in Crime No.713 of 2020**, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Ramalakshmi is that her minor daughter aged about 15 years is studying 10th std. and that on 20.10.2020, her daughter was found missing from the house, thereby, a complaint was given and based on the complaint, a case was registered under Section "girl missing" and thereafter, during the course of investigation, the fact came to light that the petitioner had kidnapped the minor girl and committed repetitive penetrative sexual assault on the victim girl.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner is working near the house of the defacto complainant and

the victim and the petitioner became friends. When the defacto complainant came to know about their friendship, she had reprimanded the victim, due to which, the victim eloped from the house and joined the petitioner. He would further submit that the petitioner without understanding the rigors and consequences of the POCSO Act had taken her with him. Meanwhile, on the complaint of the victim's mother, a case was registered. The petitioner came to know about the registration of the case and immediately on the very next day, he along with the victim girl surrendered before the respondent and the petitioner was shown to be arrested and he is in custody from 23.10.2020. He would further submit that the medical examination of the petitioner as well as the victim girl is over and the statement from the victim girl under Section 164 Cr.P.C. has been recorded and he understands from the statement that the victim has been stated that she had accompanied the petitioner on her own volition. He would further submit that the petitioner is prepared to abide by any stringent conditions that may be imposed on him.

4.The learned Government Advocate (Criminal Side) would vehemently oppose stating that the petitioner had kidnapped the minor daughter of the defacto complainant and committed repetitive penetrative sexual assault on her. He would further submit that the victim has been surrendered immediately on the next day and investigation is pending. He would further submit that medical examination in respect of the petitioner and the victim girl is over and the statement under Section 164 Cr.P.C. has been recorded from the victim girl.

5.Heard the learned counsel on either side. Perused F.I.R. and other materials placed on record, including the statement recorded from the victim girl under Section 164 Cr.P.C.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioners 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 **Special Court for Exclusive Trial of Cases under POCSO Act and Sessions Judge, 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 prison shall stay at Tenkasi and report before the Tenkasi Police Station, everyday at 10.30 a.m. until further orders.

(d) the petitioner shall not commit any offences of similar

(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/-

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 SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT AND
THE SESSIONS COURT, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
PUZHAI - II, CHENNAI.

4 THE INSPECTOR OF POLICE,
W-26, ALL WOMEN POLICE STATION,
ASHOK NAGAR, CHENNAI.

5 THE OFFICER INCHARGE,
TENKASI POLICE STATION,
TENKASI

+2 CC to M/S.A.ANILAN Advocate on payment of necessary
charges SR.NO. 8467, 8431

CRL OP.20238/2020

Date :18/12/2020