

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.81 of 2021

Vengadesan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Kiliyanur Police Station,
Villupuram District.
(Crime No.2077 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2077 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. C.Sundaresan

For Respondent : Mr.M. Prabavathy,
APP

O R D E R

(The case has been heard through video conference)

Petitioner, who was arrested and remanded to judicial custody on 18.08.2020 for the offence punishable under Sections 341, 376(AB) of IPC and Section 5(m) and 6 of Protection of Children from Sexual Offences Act 2012 in Crime No.2077 of 2020, seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that the petitioner is said to have taken the victim girl, aged about 6 years, who is the daughter of the defacto complainant and sexually assaulted her, which was witnessed by one of the relative of the victim girl. Hence, a case has been registered against the petitioner.

3. The learned counsel for the petitioner would submit that the petitioner is an aged person and also suffering 90% disability of visual impairment. He would further submit that due to some personal motive, a false complaint has been lodged against the petitioner. Now, investigation is over, final report has been filed and the matter has been taken cognizance. Hence, he seeks bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner, who is the neighbour of the defacto complainant, had sexually assaulted the victim girl, aged about 6 years. He would further submit that if the petitioner is released on bail he may tamper the witnesses. Hence, she opposed to grant bail to the petitioner.

5. I have considered the submissions made by the counsel on either side and also perused the 164 CRPC statement given by the victim girl.

6. Considering the said facts and circumstances of the case and the fact that investigation has been completed and the matter has been taken cognizance in Spl.SC.No.136 of 2020 and also the fact that the petitioner is suffering visual impairment 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, Special Court for Exclusive Trial of cases under POCSO Act, Villupuram, 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 appear before the trial Court on all hearing dates without fail.

(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.

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

-sd/-
19/01/2021

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, VILLUPURAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON, CUDDALORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
KILIYANUR POLICE STATION,
VILLUPURAM DISTRICT.

+1CC to M/S.C.SUNDARESAN Advocate on payment of necessary charges SR NO.474

CRL OP.81/2021

Date :19/01/2021

MK:20/01/2021

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