

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.362 of 2021

Venkatesh

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
W 22 All Women Police Station
Mylapore, Chennai
(Crime No.9 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.9 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. K.Selvakumaraswamy

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 06.10.2020 for the offences punishable under Sections 4 and 8 of POCSO Act 2012 and 448 of IPC in Crime No.9 of 2020, seeks bail.

2. The petitioner is the sole accused and he is the neighbour of the de-facto complainant. The allegation is that on 29.09.2020, the petitioner called the minor victim girl, who is aged 12 years and sexually assaulted her. Hence, the complaint has been given on the next day. Based on the complaint, the petitioner has been arrested on 06.10.2020.

3. The learned counsel for the petitioner would submit that the petitioner is in jail for more than three months and now, the investigation is also over and final report has been filed. The petitioner had also vacated from that place and now, he is residing in some other place. He would further submit that the petitioner is ready and willing to abide by any stringent condition that may be imposed on him. He would further submit that the petitioner has been in judicial custody since 06.10.2020. Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor strongly opposed this bail application stating that the petitioner is the neighbour of the de-facto complainant and the victim, who is a school going girl (aged 12 years) was sexually assaulted by the petitioner. Eventhough investigation is over and final report was filed, if the petitioner is released on bail, there is every possibility of tampering the witnesses.

5. The petitioner is in judicial custody since 06.10.2020. Now the investigation was over and final report was also filed. It is also stated that the petitioner has also shifted his residence to some other place.

6.Considering the above circumstances, this Court is inclined to grant bail to the petitioner with stringent conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on their executing 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 POCSO Act Cases, 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 appear before the trial Court on every Monday 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/-

21/01/2021

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 SPECIAL COURT FOR POCSO
ACT CASES, CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON 2, PUZHAI, CHENNAI

4 INSPECTOR OF POLICE,
W22, ALL WOMEN POLICE STATION,
MYLAPORE, CHENNAI.

CC to M/S K.SELVAKUMARASWAMY Advocate on payment of necessary charges Sr.639

CRL OP.362/2021

सत्यमेव जयते Date :21/01/2021

RVR 22/01/2021

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