

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 20.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.204 of 2021

Mohan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
AWPS, Mylapore
Chennai District
(Crime No.1235 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.1235 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. P.Chandrasekar

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 29.10.2020 for the offence punishable under Section Girl Missing @ Section 4 of POCSO Act, in Crime No.1235 of 2020, seeks bail.

2. The petitioner is the sole accused in this case. The case of the prosecution is that the de-facto complainant's daughter, who is a minor has been kidnapped by the petitioner for the purpose of getting marriage and also sexually assaulted her. Hence the complaint.

3. The learned counsel for the petitioner would submit that though the petitioner and the minor girl were in love, she had only compelled the petitioner to marry her and she voluntarily left the parental house and thereby, the petitioner advised her to go to her parental house. In the mean time, he was arrested. The learned counsel would also submit that the victim girl has also given a statement under Section 164 of Cr.P.C., in which it has been clearly explained that the petitioner is innocent. He would further

submit that the petitioner is in judicial custody since 29.10.2020. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor would submit that the petitioner kidnapped the minor girl and sexually assaulted her and now, the victim girl has been secured. She would further submit that investigation almost completed.

5. The learned counsel for the intervenor/defacto complainant would submit that the petitioner had taken photographs of the victim in the mobile phone and thereby, threatening the victim girl to upload the photographs in the social media and against her wishes, he sexually assaulted her. He would further submit that the mobile phone has been seized by the respondent police.

6. Earlier occasion, this Court directed the learned Additional Public Prosecutor to verify whether any obscene photos found in the mobile phone.

7. The learned Additional Public Prosecutor would submit that no obscene photos found in the mobile phone.

8. Considering the above facts and circumstances and in the statement recorded under Section 164 of Cr.P.C, the victim girl has clearly stated that she voluntarily left her parental house and she had only compelled the petitioner to marry her and also taking note of the fact that the petitioner is in judicial custody from 29.10.2020, this Court is inclined to grant bail to the petitioner in subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on his 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 Exclusive Trial of Case under POCSO Act at 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 report before the respondent police, as and when required for interrogation.

(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/-
20/01/2021

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 EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT, CHENNAI.

2 THE INSPECTOR OF POLICE,
AWPS, MYLAPORE,
CHENNAI DISTRICT.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

CC to M/S. P.CHANDRASEKAR Advocate on payment of necessary charges

CRL OP.204/2021

Date :20/01/2021