

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.01.2021

CORAM :

THE HON'BLE Mr.JUSTICE V.BHARATHIDASAN

Crl.O.P.Nos.401 & 435 of 2021

Selvakumar ... Petitioner in Crl.OP.401/2020

Dhanabakkiyam ... Petitioner in Crl.OP.435/2020

Vs.

The State Rep by
Inspector of Police,
All Women Police Station,
Perambalur.
(Crime No.20 of 2020)

... Respondent in both Crl.OPs

PRAYER: Criminal Original Petitions filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.20 of 2020 pending on the file of the Respondent.

For Petitioners
in both Crl.OPs : Mr.R.Kuyilan

For Respondent
in both Crl.OPs : Mrs.M.Prabhavathi,
Additional Public Prosecutor

C O M M O N O R D E R

(The cases have been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 23.11.2020 for the alleged offence under Sections 366, 366(A) of IPC r/w Section 5(1), 6 of POCSO Act in Crime No.20 of 2020, seek bail.

2. The case of the prosecution as per the de facto complainant is that there are totally three accused in this case and the petitioners are A2 & A3. A2 is the mother of A1 and A3 is the friend of A1. The allegation is that the victim girl, aged 15 years had love affair with A1, which was condemned by the parents of the victim girl. Subsequently, A1 is said to have sexually assaulted the minor girl, due to which, she became pregnant. Based on the complaint given by the mother of the victim, the case has been registered and the petitioners were

arrested on 23.11.2020.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocents and they have been falsely implicated in this case. He would submit that the petitioners are mother and friend of A1 and absolutely, there is no allegation against the petitioners and hence, he prays to grant bail to the petitioners.

4. The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that the first accused made sexual assault on the victim girl, who is a minor, aged 15 years, due to which, she became pregnant and that the petitioners abetted the first accused to commit the alleged offence and hence the petitioners were arrested.

5. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent. Perused the entire materials available on record as also the statement under Section 164 Cr.P.C recorded from the victim girl.

6. Considering the facts and submissions made by the learned counsels and the fact that there is no serious allegation against the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a separate 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 District Mahila Judge, Perambalur 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 petitioners, on their release from prison, shall report before the respondent police as and when required for interrogation;

(d) the petitioners shall not commit any offences of similar nature;

(e) the petitioners shall not abscond either during investigation or trial;

(f) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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, these Criminal Original Petitions are ordered.

-sd/-
18/01/2021

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 DISTRICT MAHILA JUDGE,
PERAMBALUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

3 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
TRICHY.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
PERAMBALUR

CC to M/S R.KUYILAN Advocate on payment of necessary charges

CRL.OP.NOS.401 & 435 OF 2021

Date :18/01/2021