

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.864 of 2021

V.Ganesan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Thanipadi Police Station
Tiruvannamalai District.
(Crime No.2993 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.2993 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.M.Krishnamoorthy

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 07.12.2020 for the offences punishable under Sections 3, 4, 5(1), 6 of Protection of Children from Sexual Offences Act 2012, in Crime No.2993 of 2020, seeks bail.

2. The petitioner is the sole accused. The allegation is that the petitioner had kidnapped the victim girl, who is aged 15 years and committed penetrative sexual assault on her. Based on the complaint given by the mother of the victim girl, crime has been registered. The petitioner was arrested on 07.12.2020.

3. The learned counsel for the petitioner would submit that the victim is none other than the petitioner's sister's daughter. She is living in the house of the petitioner and she was taken for medical examination. Based on the report given by the Doctor, the crime has been registered and the petitioner has been arrested on 07.12.2020. Now, the investigation is also over. The victim girl has also given a statement under Section 164 of Cr.P.C before the Judicial Magistrate. He would further submit that the petitioner

has been in judicial custody since 07.12.2020. Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor strongly opposed this bail application stating that the victim girl is the petitioner's sister daughter, and she is a minor. The petitioner sexually assaulted her, and the victim girl got pregnant and she was taken for medical examination and based on the complaint given by the mother of the victim girl, the petitioner's own sister, crime has been registered. Now, Investigation is almost over.

5. Considering the facts and circumstances of the case and also of the fact that the investigation has been completed and the statement has been recorded from the victim girl under Section 164 of Cr.P.C, and also taking note of the fact that the petitioner has been in judicial custody since 07.12.2020, 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 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 Cases under POCSO Act, Tiruvannamalai, 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 respondent police daily 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/-
22/01/2021

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,
TIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THANIPADI POLICE STATION,
TIRUVANNAMALAI.

+1CC to M/S.M.KRISHNAMOORTHY Advocate on payment of
necessary charges SR NO.758

CRL OP.864/2021

Date :22/01/2021

MK:25/01/2021