

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.1532 of 2021

Muthu

... Petitioner

Vs.

State by
The Inspector of Police,
Maduranthagam Police Station,
Chengalpattu.
(Crime No.1761 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.1761 of 2020 on the file of respondent police.

For Petitioner : Mr.S.Sugendran

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 16.11.2020 for the offence punishable under Sections 366 (A), 109 of I.P.C. r/w under Section 7, 8 of POCSO Act, 2012, in Crime No.1761 of 2020, seeks bail.

2. The case of the prosecution is that the victim girl is by name Jayalakshmi, aged about 13 years and A1 in this case is the brother of petitioner. He wanted to marry her. Accordingly, they have approached her parents, but they have refused. Hence, the petitioner along with A1 and A2 Latha, kidnapped that girl and wrongfully confined her and they have also threatened to send her for prostitution. Therefore, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 16.11.2020. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the main allegation is only against A2 and A4. He would submit that since the petitioner is brother of A1, he was also implicated as accused in this case. He would submit that he is an innocent person and he is no way connected with the offence as

alleged in the complaint. He would submit that he has been falsely implicated in the present case. He would submit that he was arrested on 16.11.2020 and on the date of expiry of 90 days, now the final report has been filed. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is the brother of A1. She would submit that the petitioner along with A2 and A4 have kidnapped a minor girl for the purpose of getting her married to A1, hence, there was a complaint. She would submit that subsequently, the victim appeared before the Judicial Magistrate and given a statement under Sec.164 of Cr.P.C. stating that only A2 and A4 have kidnapped her and they have also forced her to go for prostitution. Now, it is stated that A2 was already released on bail and no final report has been filed before the expiry of 90 days. She would also submit that there is no previous case pending against the petitioner. Hence, she opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that, the main allegation is only against other accused and the petitioner is only brother of A1, there is no serious allegation of abetment against the petitioner, before the expiry of 90 days the final report has not been filed and it was filed only on 16.02.2021, there is no bad antecedents pending against the petitioner, and also considering the fact that the bail petition has been filed prior to the filing of final report by the respondent police, 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 Special Court for Exclusive Trial of cases under POCSO Act at Chengalpattu**, 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 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.

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

-sd/-
23/02/2021

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, CHENGALPATTU.

2 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
MADURANTHAGAM POLICE STATION,
CHENGALPATTU.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

WEB COPY

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

CRL OP.1532/2021

Date :23/02/2021