

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.1924 of 2021

Elumalai

... Petitioner

Vs.

State by

... Respondent

The Inspector of Police,
All Women Police Station,
Vandavasi, Tiruvannamalai Dt.
(Crime No.07 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.07 of 2020 on the file of respondent police.

For Petitioner : Mr.B.Jawahar

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

ORDER

(The case has been heard through video conference)

The petitioner is a sole accused. The petitioner, who was arrested and remanded to judicial custody on 28.12.2020 for the offence punishable under Sections 10 of POCSO Act, 2012, in Crime No.07 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner is 75 years old retired Headmaster. On 28.12.2020, while the minor victim girl, aged about 7 years, playing near a temple, he has forcibly taken her, sexually assaulted her, kissed her and also biting her lips. Hence, based on the complaint given by mother of victim girl, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 28.12.2020. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner is a very old man and he a retired School Headmaster. He would submit that because of rivalry between the petitioner and the defacto complainant, a false complaint has been given against him. He would also submit that the petitioner is in

jail for more than 60 days, now the investigation is over and the final report has also been filed. 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. 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 a retired school headmaster, aged about 75 years, the victim girl is aged about 7 years old. She would submit that the petitioner has forcibly taken the minor girl and sexually assaulted her. Thereafter, on her information, the mother gave a complaint. She would submit that now the investigation has been completed and the final report has also been filed. 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 investigation has been completed, final report has also been filed and also considering the fact that the petitioner is in jail for more than two months, this Court is inclined to grant bail to the petitioner subject to the following stringent 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, 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 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/-
01/03/2021

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 PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION, VANDAVASI,
TIRUVANNAMALAI DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

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

CRL OP.1924/2021

Date :01/03/2021

MN-02/03/2021