

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.2632 of 2021

Sekar

... Petitioner

Vs.

State by

... Respondent

The Sub-Inspector of Police,
Mangalapuram Police Station,
Namakkal District.
(Crime No.540 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.540 of 2020 on the file of Respondent police.

For Petitioner : Mr.S.Muthukrishnan

For Respondent : Mrs.M.Prabhavathi,
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 18.11.2020 for the offence punishable under Section 5(1) and Section 6 of Protection of Child from Sexual Offences Act, 2012 in Crime No.540 of 2020 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the petitioner was an astrologer in a temple. Hence, the defacto complainant took her daughters to the petitioner for rituals, where the petitioner said to have sexually assaulted her. In the said circumstances, a criminal case has been registered against the petitioner, he was arrested and remanded to judicial custody on 18.11.2020. Now, seeking bail, the present petition has been filed.

3. The learned counsel appearing for petitioner would submit that the victim girl and the defacto complainant are close relatives and he is only an astrologer. The defacto complainant came to see him for some advise, thereafter, the present complaint has been given as if the petitioner has alleged to have sexually

assaulted a minor girl and he is in jail for more than three months. He would submit that the petitioner has been falsely implicated in this case and he has no bad antecedents. He would submit that the investigation is also over and 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 has strongly opposed this petition on the ground that the petitioner is a relative of victim girl and he has sexually assaulted a minor girl. Now, investigation is also completed and the final report has been filed and there is no bad antecedents against the petitioner. However, she opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Addl. Public Prosecutor appearing for respondent.

6. Taking into consideration of the fact that, now the investigation is completed, final report has been filed, there is no bad antecedents against the petitioner and considering the period of incarceration suffered by the petitioner from 18.11.2020, 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 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 Sessions (Fast Track Mahila) Judge, Namakkal** 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, after his release from prison, shall appear before the trial court, viz., learned Sessions (Fast Track Mahila) Court, Namakkal on all hearing dates 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/-
08/03/2021

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 SESSIONS (FAST TRACK
MAHILA) JUDGE, NAMAKKAL.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUB INSPECTOR OF POLICE,
MANGALAPURAM POLICE STATION,
NAMAKKAL DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL JAIL, SALEM.

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

WEB COPY
CRL OP.2632/2021
Date :08/03/2021

TA-09/03/2021