

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.1928 of 2021

M.Govindaraj

... Petitioner

Vs.

State by

... Respondent

The Inspector of Police,
J-10 Chemmancherry Police Station,
Chengalpattu District.
(Crime No.933 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.933 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.E.Kannadasan

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 22.11.2020 for the offence punishable under Sections 366 of I.P.C. and Section 6 of Protection of Children from Sexual Offence Act, 2012 in Crime No.933 of 2020 on the file of respondent, seeks bail.

2. The case of the prosecution is that the victim girl is 13 years old and the petitioner said to have kidnapped and also sexually assaulted her. Based on the complaint given by the father of victim girl, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 22.11.2020. Now, he has filed this petition seeking for bail.

3. The learned counsel appearing for the petitioner submitted that both the petitioner and the victim girl have fallen in love and on her own, she came out of her parents house. He would submit that the petitioner has never kidnapped her, he has only advised her to go to her parents house. He would submit that he is an innocent person and he is no way connected with the offence. He would submit that he has been falsely implicated as accused in this case and he

was in judicial custody for more than three months. He would also submit that the investigation is also completed and the statement under Sec.164 of Crl.P.C. has been recorded from the victim girl, which would itself show that absolutely there is no allegation against the petitioner. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the victim girl is only aged 13 years old and the petitioner is 34 years old married man. She would submit that he has kidnapped the victim girl for the purpose of getting married and also sexually assaulted her. She would submit that now they are waiting for a medical report and they are also going to file a final report. Hence, 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 Additional Public Prosecutor and perused the records.

6. On perusal of materials available on record and also the statement of victim girl, it could be seen that there is no forcible kidnapping and also no sexual assault made by the petitioner. Therefore, considering the above facts and circumstances and also considering the period of incarceration suffered by the petitioner from 22.11.2020, 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 Judge, Special Court for Exclusive Trial of Cases under POCSO Act, 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., for the period of two weeks;**

(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/-
10/02/2021

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT, CHENGALPATTU.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE HON'BLE POCSO COMMITTEE,
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
J-10, CHEMMANCHERRY POLICE STATION,
CHENGALPATTU DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

+1 CC to M/S.E.KANNADASAN Advocate on payment of necessary charges SR.NO.1388

CRL OP.1928/2021

Date :10/02/2021

TA-09/02/2021