

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3298 of 2021

Aariff @ Mohammad Aariff

... Petitioner

Vs.

State Rep. by
Inspector of Police,
W-18, All Women Police Station,
M.K.B. Nagar,
Chennai.
(Crime No.9 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in Crime No.9 of 2020 on the file of the respondent police.

For Petitioner : Mr. C.Premkumar

For Respondent : Mrs. M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 17.12.2020 for the offence punishable under Sections 376 and 506(i) of IPC in Crime No.9 of 2020, seeks bail.

2. The petitioner is the sole accused. The case of the prosecution is that on the date of occurrence, when the defacto complainant was alone in her house, the petitioner entered into the house of the defacto complainant house and raped her. The petitioner was remanded to judicial custody on 17.12.2020. Now, seeking bail, the present petition has been filed.

3. The counsel for the petitioner would submit that the petitioner has been falsely implicated in this case. He would further submit that the petitioner was arrested and remanded to judicial custody on 17.12.2020. The petitioner is in custody for more than 90 days and final report has not been filed till date. In the said circumstances, the petitioner is entitled for statutory bail under Section 167(2) Cr.P.C. Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor would submit that as the offences against the petitioner are serious in nature and major part of investigation is over and final report alone is yet to be filed. Hence, she oppose to grant bail to the petitioner.

5. The case has been registered under Section 376 of IPC. The petitioner is in judicial custody for more than 90 days. Despite the lapse of statutory period, the respondent has not filed the final report and thereby, the petitioner is entitled for statutory bail.

6. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsel and the fact that the respondent has not filed the final report in this case despite the lapse of statutory period, this Court is left with no other option except to grant bail. Hence, 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 Mahila Court, Egmore 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 release from the 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.

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

-sd/-
19/03/2021

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 MAHILA COURT,
EGMORE.

2 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-18, ALL WOMEN POLICE STATION,
M.K.B.NAGAR, CHENNAI.

4 THE OFFICER INCHARGE,
SUB JAIL, SAIDAPET.

+1 CC to M/S.N.CHINNARAJ Advocate on payment of necessary charges SR NO. 3683

CRL OP.3298/2021

Date :19/03/2021

WEB COPY

MN-22/03/2021