

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.3398 of 2021

Sathish @ Jagan

... Petitioner

Vs.

State by

The Inspector of Police,
W-8 All Women Police Station,
Thirumangalam, Chennai.
(Crime No.13 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.13 of 2021 pending investigation on the file of the Respondent.

For Petitioner : Mr.Balaji Sankara Moorthy

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

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 04.01.2021 for the offence punishable under Sections 366 A of I.P.C. and Sections 5(i) r/w 6 of POCSO Act in Crime No.13 of 2021 on the file of respondent, seeks bail.

2. The case of the prosecution is that the victim girl is a minor, aged about 15 years. The petitioner said to have kidnapped a minor girl for the purpose of getting married her also sexually assaulted her. Subsequently, based on the complaint given by the parents of victim girl, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 04.01.2021. 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 loved each other. He would submit that on her own, the victim girl came out of her parents house and went to the petitioner's house. He would submit that the petitioner has never kidnapped her, he has only

advised her to go to her parents house. In the meantime, the criminal case has been registered and he was arrested. He would submit that the victim is on the verge of attaining majority, he has not kidnapped the minor girl. 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 a month. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the victim girl is aged 15 years old. She would submit that for the second time, this complaint was given. She would submit that earlier, the petitioner has kidnapped the victim girl and subsequently, she was rescued, now once again, he has kidnapped the minor girl for the purpose of getting married her and also sexually assaulted her. She would submit that there is no criminal case pending against the petitioner. She would submit that the investigation is almost over and the victim girl has also given a statement under Sec.161 of Cr.P.C. 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 the statement given by the victim girl, it could be seen that both the victim girl and the petitioner have loved each other and on her own, the victim girl left the parental house and lived with the petitioner, the investigation is also over, and also considering the period of incarceration suffered by the petitioner from 04.01.2021, 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, Chennai 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/-
22/02/2021

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 JUDGE FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-8 AWPS, THIRUMANGALAM,
CHENNAI.

+1CC to M/S.BALAJI SANKARA MOORTHY Advocate on payment of
necessary charges SR NO.2086

CRL OP.3398/2021

Date :22/02/2021

MK:23/02/2021



WEB COPY