

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.3536 of 2021

Arun Kumar

... Petitioner

Vs.

State Rep. by  
The Inspector of Police,  
Nannilam Police Station,  
Thiruvarur District.  
(Crime No.2160 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2160 of 2020 on the file of respondent police.

For Petitioner : Mr.T.Muruganantham

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

O R D E R

(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 31.12.2020 for the offence punishable under Sections 366(A) of I.P.C. 5(1) read with 6 of POCSO Act, in Crime No.2160 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner has kidnapped the minor girl, aged about 17 years, and sexually assaulted her. Hence, based on the complaint given by parents of victim girl, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 31.12.2020. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that it is case of love affair, both the victim girl and the petitioner have loved each other. He would submit that on her own, she had left the parental house and lived with the petitioner and there is no allegation of sexual assault. In the meantime, the parents of victim girl have lodged a complaint and he was arrested on 31.12.2020. He would submit that investigation is almost completed, and there is no specific overtact attributed against the petitioner. He would submit that he is an innocent person and he is no way connected with the offence. Hence, he prayed to grant bail to the

5. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that the petitioner has kidnapped the minor girl, and taking morphed photographs of a victim girl, he has harassed her and also blackmailed her. Subsequently, he has kidnapped her and sexually assaulted her. Hence, a criminal case has been registered against the petitioner and he was arrested on 31.12.2020. She would submit that the statement under Sec.164 of Cr.P.C. has been recorded from the victim girl and the investigation is almost completed. However, she opposed to grant bail to the petitioner.

6. Taking into consideration of the facts and circumstances and also perusal of statement of victim girl recorded under Sec.164 of Cr.P.C. and it could be seen from that statement, victim girl went along with the petitioner and he alleged to have married her, kept her for some time and there is no sexual harassment, and also considering the fact that the period of incarceration suffered by the petitioner from 31.12.2020 and there is no previous antecedents against the petitioner, 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, Fast Track Mahila Court, Tiruvarur 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, 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/-

04/03/2021

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 JUDGE  
FAST TRACK MAHILA COURT,  
TIRUVARUR

2 THE OFFICER INCHARGE  
DISTRICT PRISON, THIRUVARUR

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 INSPECTOR OF POLICE,  
NANNILAM POLICE STATION,  
THIRUVARUR DISTRICT.

CC to M/S.T.MURUGANANTHAM Advocate on payment of necessary charges Sr.2759

CRL OP.3536/2021

Date :04/03/2021

RVR 05/03/2021

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