

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.4449 of 2021

P.Vignesh

... Petitioner

Vs.

State rep. by
The Inspector of Police,
W-27, All Women Police Station,
Vadapalani, Chennai.
(Crime No.01 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.01 of 2021 on the file of Respondent police.

For Petitioner : Mr.S.Prasath

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 25.01.2021 for the offence punishable under Section 4 of POCSO Act, in Crime No.01 of 2021 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the victim girl, who is minor, aged about 14 years, studying in a school and the victim girl family is tenant under the defacto complainant. On 21.01.2021, the petitioner said to have took the victim girl inside his house and sexually assaulted her. Hence, based on the complaint given by the father of the girl, a criminal case has been registered and the petitioner was arrested and remanded to judicial custody on 24.01.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that both the petitioner and the victim girl loved each other, which was opposed by her parents, now given a false complaint as if the petitioner has sexually assaulted the girl. He would submit that he is an innocent person and he is no way connected with the offence as alleged in the complaint. He would submit that he is in jail for more than two months. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the girl, who is a minor, aged about 14 years old. The petitioner is a son of the landlord and he had took the victim girl to his house and sexually assaulted her. Hence, the crime was registered against him. Now, the investigation would reveals that victim girl has given a statement under Sec.164 of Cr.P.C. before the Judicial Magistrate. She would also submit that there is no bad antecedents pending against the petitioner and the investigation is almost completed. Hence, she strongly opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by learned counsel appearing for petitioner as well as learned Additional Public Prosecutor appearing for respondent and perused the records including the statement of victim girl recorded under Sec.164 of Cr.P.C.

6. Considering all those facts and circumstances of the case including the statement of the victim girl given under Sec.164 of Cr.P.C. and considering the fact that now the investigation is almost completed, the respondent police is going to file a final report and also considering the period of incarceration suffered by the petitioner from 25.01.2021, 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, after his release from 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/-
25/03/2021

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 SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT, CHENNAI.

2 THE INSPECTOR OF POLICE,
W-27, ALL WOMEN POLICE STATION,
VADAPALANI, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON-II, PUZHAI.

+1 CC to M/S. S.PRASATH Advocate on payment of necessary charges
SR NO. 4046

WEB COPY

CRL OP.4449/2021

Date :25/03/2021

MN-26/03/2021