

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.5711 of 2021

Haja Alavudeen

... Petitioner

Vs.

State rep. by

... Respondent

The Inspector of Police,
Eravancherry Police Station,
Tiruvarur Dt.
(Crime No.45/2021)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Cr.No.45 of 2021 on the file of the respondent Police.

For Petitioner : Mr.S.Sounthar

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 Sections 448, 376, r/w Sec. 511 of I.P.C., in Crime No.45 of 2021, seeks bail.

2. The case of the prosecution is that the petitioner and the defacto complainant are neighbours, residing in the same apartment. The victim is a mentally unstable person. Taking advantage of the same, and while the others were away from the house, the petitioner has trespassed into the house and attempted to commit rape, wherein the victim has raised voice, other neighbours have come and rescued her. Hence, a criminal case has been registered against him, and the petitioner was arrested and remanded to judicial custody on 25.01.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that they are neighbours and there is a civil dispute pending between the petitioner and the defacto complainant, due to which, a false complaint has been given. He would submit that the petitioner

is an innocent person, he has been falsely implicated in this case and he is in jail for nearly two months. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would strongly oppose this petition on the ground that the victim girl is mentally unstable person. Taking advantage of the same, the petitioner, who is a neighbour trespassed into her house and tried to assault her sexually, the neighbours caught red handed him and he was arrested and remanded to judicial custody. She would submit that now the investigation is almost completed. Hence, she opposed to grant bail to the petitioner.

5. Considering those facts and circumstances, investigation is almost completed and also considering the period of incarceration suffered by the petitioner for nearly two months, 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 District Munsif cum Judicial Magistrate, Nannilam**, 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.

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

-sd/-
23/03/2021

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
NANNILAM.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ERAVANCHERRY POLICE STATION,
TIRUVARUR DISTRICT.

5 THE OFFICER INCHARGE,
SUB-JAIL, NAGAPATTINAM.

+1 CC to M/S. S.SOUNTHAR Advocate on payment of necessary charges SR.NO.3888

CRL OP.5711/2021

Date :23/03/2021

TA-24/03/2021

WEB COPY