

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 26.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.6069 of 2021

**(\*) D.MUTHUKUMARAN**

... Petitioner

Vs.

State rep. by

The Inspector of Police,  
K.V.Kuppam Police Station,  
Vellore Dt.

(Crime No.62 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.62 of 2021 on the file of Respondent police.

For Petitioner : M/s.S.P.Arthi

For Respondent : Mr.M.Prabhavathi,  
Addl. Public Prosecutor  
(CrI.OP.No.6069/2021)

For Respondent : M/S.S.KARTHIKEYAN,  
Addl. Public Prosecutor  
(CrI.MP.No.4480/2021)

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 16.02.2021 for the offence punishable under Sections 366A of I.P.C. and Sections 4 and 6 of POCSO Act, 2012 in Crime No.62 of 2021 on the file of respondent police, seeks bail.

2. The case of the prosecution is that the victim is a daughter of defacto complainant, who is minor, aged about 14 years. The petitioner had kidnapped the victim girl for the purpose of getting married her and also sexually assaulted her. Hence, based on the

complaint given by father of victim girl, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 06.03.2021. 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 have loved each other and she is in the verge of attaining majority, and she on her own, voluntarily came out of the house, went with the petitioner and came to Chennai. He would submit that the petitioner has advised her and sent back to her parental house. He would submit that there is no allegation of sexual assault and the victim girl has also given a statement under Sec.164 of Crl.P.C. before the Judicial Magistrate, which would clearly show that there is no sexual assault and the petitioner only sent her back to parental house. In the meantime, the complaint was given by the parents of victim girl and he was arrested on 06.03.2021 and he is in jail from 06.03.2021. 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 has been falsely implicated in the present case. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner has kidnapped the victim girl, aged about 17 years and also sexually assaulted her. Hence, the crime was registered against him. Now, 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 the learned counsel appearing for petitioner as well as learned Additional Public Prosecutor and perused the records including the statement recorded under Sec.164 of Cr.P.C.

6. On perusal of the statement of victim girl recorded under Sec.164 of Cr.P.C., it could be seen that the victim girl, who was on the verge of attaining majority, on her own came to Chennai and stayed with the petitioner for some time and thereafter, on a complaint given by the father, the petitioner was arrested and she was rescued by the police. Taking into consideration of the fact that it is not the case of kidnapping and it seems that the victim girl on her own, left her house and went with the petitioner, and also considering the period of incarceration suffered by the petitioner from 06.03.2021, 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 Trial of Cases under POCSO Act, Vellore 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 as and when required for interrogation;

(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.

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-sd/-  
26/03/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

(\*) Amended and Time is extended for a further period of two weeks to comply with the conditions imposed by this Court in Crl.O.P.No.6069 of 2021 dated 26.03.2021, as per Order of this Court dated 01.04.2021 made in Crl.MP.No.4480 of 2021 in Crl.OP.No.6069 of 2021

TO

1 THE SPECIAL COURT FOR TRIAL  
OF CASES UNDER POCSO ACT, VELLORE.

2 THE OFFICER INCHARGE  
SUB-JAIL, GUDIYATHAM, VELLORE DISTRICT.

3 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,  
K.V.KUPPAM POLICE STATION,  
VELLORE DISTRICT.

+1 CC to M/S.S.P.ARTHI Advocate on payment of necessary charges  
SR.No.4569

CRL OP.6069/2021

Date :26/03/2021

cs 29/03/2021

cs 09/04/2021

सत्यमेव जयते

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