

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 25.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.6031 of 2021

Charles @ Charles Rajadurai

... Petitioner

Vs.

State rep. by

The Inspector of Police,
W-17, All Women Police Station,
Peravallore, Chennai.
(Crime No.1 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.1 of 2021 on the file of Respondent police.

For Petitioner : Mr.K.Selvakumaraswamy

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 24.02.2021 for the offence punishable under Section 10 of POCSO Act, 2012 and Section 506(i) of I.P.C. in Crime No.1 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 12 years, a school going girl. Both father and mother were separated and she is living with her mother. The petitioner is a neighbour and used to visit the house of mother, where he had sexually assaulted the victim girl, aged about 12 years and the mother is a silent spectator to all these occurrence. Thereafter, when the occurrence came to the knowledge of father, he has given a complaint against the petitioner. Hence, a criminal case has been registered and the petitioner was arrested and remanded to judicial custody on 24.02.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner is a neighbour of a victim girl's family and both father and mother were separated. Now, father of victim girl has some grievance over her mother, at his instigation, she has given a false complaint against him. 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 one month. Hence, he prayed to grant bail to the petitioner.

4. The learned counsel appearing for intervenor would submit that the victim girl is a daughter of defacto complainant and now, she is residing with her mother. The petitioner, who is her neighbour and he is also her paramour, used to visit the house regularly, sexually assaulted the victim girl continuously. He would submit that when the father of defacto complainant came to know about the same, he has filed the present complaint against him, if the petitioner released on bail, he will tamper the witnesses.

5. The learned Additional Public Prosecutor appearing for the respondent would submit that the girl is a minor, aged about 12 years old. The petitioner is her neighbour and he used to visit the house regularly, has sexually assaulted the victim girl continuously. Hence, the crime was registered against him. Now, the investigation would reveal that victim girl has given a statement under Sec.164 of Cr.P.C. before the Judicial Magistrate, wherein, she has stated that the petitioner used to come to her house and asked her to kiss him and also sexually assaulted her and also produced the copy of statement before this court. 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 Crl.P.C.

6. On perusal of records, including the statement of victim girl recorded under Sec.164 of Crl.P.C., it could be seen that the petitioner used to visit her house, asked her to kiss him and when she is sleeping in the bed, he used to tease her and that apart, there is no serious allegation of any sexual assault. Considering all those facts and circumstances, and also considering the period of incarceration suffered by the petitioner from 24.02.2021, 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 Judge 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.

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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

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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 OFFICER INCHARGE,
SUB-JAIL, PONNERI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-17, ALL WOMEN POLICE STATION,
PERAVALLORE, CHENNAI

CC to M/S.K.SELVAKUMARASWAMY Advocate on payment of
necessary charges

CRL OP.6031/2021

Date :25/03/2021

MK:26/03/2021

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