

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.6784 of 2021

Vinoth Kumar

... Petitioner

Vs.

State Rep by
Inspector of Police,
W-8, All Women Police Station,
Thirumangalam,
Chennai -600 040.
(Cr.No.5 of 2021)

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail pending investigation in Crime No.5 of 2021 on the file of the respondent police.

For Petitioner : Mr.R.Sivanathan

For Respondent : Mrs.M.Prabhavathi
Additional Public Prosecutor

ORDER

The petitioner who was arrested on 18.01.2021 and remanded to judicial custody for the offence under Section 5(1) r/w 6 of of POCSO Act 2012 in Cr.No.5 of 2021 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that the petitioner threatened the victim girl and illegally detained her in his house for 8 hours and committed sexual assault on her. Based on the complaint given by the father of the victim girl the law enforcing agency registered the case against the petitioner.

3.The learned counsel appearing for the petitioner submits that both the petitioner and the victim girl were watching Master flim in the petitioner's laptop on the date of occurrence. He further submits that the petitioner and the victim girl loved each other and the petitioner has not forcibly raped her as alleged by the prosecution and he has been falsely implicated in this case. Hence he prays for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor submits that the petitioner threatened the victim girl and illegally detained her in his house for 8 hours and committed sexual assault on her. She further submits that statement of the victim girl u/s 164 Cr.P.C. was recorded, wherein she had stated that the petitioner had committed sexual assault on her. Hence, she vehemently opposed for grant of bail to the petitioner.

5. On a perusal of the statement recorded under section 164 of Cr.P.C it is evident that the victim girl had admitted the fact that she had gone to the house of the petitioner on her own volition to watch cinema with the petitioner.

6. In the above circumstances, taking into consideration the facts as also the submissions advanced by the learned counsel appearing on either side and also the statement of the victim recorded under section 164 Cr.P.C and also the period of incarceration suffered by the petitioner and further taking into consideration the progress of investigation, I am inclined to grant bail to the petitioner.

7.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Judge, Court of Exclusive Trial of Cases under POCSO ACT at Chennai and on further condition that:

(a)the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b)the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

(c)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d)the petitioner shall not abscond either during investigation or trial;

(e)on breach of any of the aforesaid conditions, the learned 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]; and;

(f)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

09/04/2021

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 JUDGE,
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT AT
CHENNAI

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-8 ALL WOMEN POLICE STATION,
THIRUMANGALAM, CHENNAI - 600 040.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

+2 CC to M/S R.Sivanathan Advocate on payment of necessary
charges SR.NO. 4601

CRL OP.6784/2021

सत्यमेव जयते Date :09/04/2021

rvr 09/04/2021

WEB COPY