

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.9898 of 2021

Vijayakumar

... Petitioner

Vs.

State represented by
The Inspector of Police,
Pattabiram Police Station,
Ambattur District.
(Crime No.74 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in Crime No.74 of 2021 pending investigation on the file of respondent police.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Mr.E.Raj Thilak
Government Advocate (Crl side)

ORDER

The petitioner/A5 who was arrested on 04.05.2021 and remanded to judicial custody for the offence punishable under Section 366 A of IPC in Cr.No.74 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the daughter of the de facto complainant (victim girl) found missing and accordingly a complaint has been lodged under "girl missing" case on 26.03.2021. It is alleged that the co accused (A1) was in love affair with the victim girl. Hence, the complaint was registered.

3. The learned counsel for the petitioner submitted that the petitioner/A5 is no way connected with the alleged offence and he has been falsely implicated in this case and the petitioner is in jail from 04.05.2021. He further submits that the father of the petitioner died due to Covid 19 on 21.05.2021 and his last funeral rites to be held on 07.06.2021. He also submits that the victim girl eloped with the other accused (A1) who is the relative of the petitioner. He further submits that the petitioner will co-operate with the respondent Police to find out the eloped persons. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) on instructions submits that the co accused (A1) is the Sister's son of the petitioner. He further submits that during the time of enquiry, the petitioner has furnished details of particulars whatever known to him about the eloped persons at Ghaziabad. He also submits that it is found correct that the father of the petitioner died on 21.05.2021 and the lost funeral rites to be held on 07.06.2021. More so, initially the complaint was registered under Section 366A of IPC in Crime No.74 of 2021, it reveals that the victim girl who is a minor is yet to be secured and therefore, the Section has to be altered under POCSO Act. But, he vehemently opposed for grant of bail to the petitioner.

5 Considering the facts and submissions made by the learned counsel for the petitioner and the period of incarceration suffered by the petitioner and the present COVID-19 pandemic situations, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) before the Superintendent of the Sub Jail, Thiruvallur, in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the learned Judicial Magistrate No.II, (FAC), Thiruvallur, within a period of 15 days from the date of lifting of lock down and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) 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;

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

(e) the petitioner shall not commit any offences of similar nature;

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

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

(h) 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].

(i) 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/-
04/06/2021

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 JUDICIAL MAGISTRATE NO.II (FAC),
THIRUVALLUR.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVALLUR [FOR INFORMATION]

3 THE SUPERINTENDENT,
SUB-JAIL, THIRUVALLUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
PATTABIRAM POLICE STATION,
AMBATTUR DISTRICT.

CC to M/S.S.SARAVANA KUMAR Advocate on payment of necessary charges

CRL OP.9898/2021

Date :04/06/2021

MK:08/06/2021