

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.9962 of 2021

R.Balakrishnan

... Petitioner

Versus

The State by rep. By
The Inspector of Police,
G3 Kilpauk Police Station,
Kilpauk, Chennai.
(Crime No.153 of 2021)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the petitioner on bail pending investigation in Crime No.153 of 2021 on the file of the respondent police.

For Petitioner : Mr.P.Venkataraman

For Respondent : Mr.E.Raj Thilak,
Counsel for Government (Crl.Side)

ORDER

The petitioner was arrested and remanded to judicial custody on 19.05.2021 for the offences under Section 363, 365, 342, 506(i) and 376 of IPC, in Crime No.153 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner along with other accused persons had kidnapped the victim girl to vellore and one Sakthivel/A1, who is the main accused in this case, forcibly raped the victim girl and hence, an FIR came to be registered against this petitioner.

3. The learned counsel appearing for the petitioner would submit that the petitioner being a call taxi driver, had picked up the victim girl and other accused persons from Chennai to Vellore for trip and he is no way connected with this offence. The learned counsel for the petitioner further submitted that the petitioner had remanded to judicial custody on 19.05.2021 and he has already suffered incarceration for more than 19 days. The learned counsel further submitted that this Court may consider releasing the petitioner on bail by imposing certain conditions.

4. The learned counsel for Government (Criminal Side) on instructions would submit that one sakthivel had one side love with the victim girl. Since the victim girl refused to accept the love of Sakthivel, had kidnapped her and forcibly had physical intercourse with her. The petitioner has been arrested in this case on the ground that he helped the main accused to kidnap the victim girl and hence, he opposed to grant bail to the petitioner.

5. Taking into consideration the facts and circumstances of the case and also taking note of the fact that the petitioner is only a call taxi driver and A1 is the main accused in this case and the petitioner was in judicial custody from 19.05.2021, this Court is inclined to grant bail to the petitioner, subject to the following conditions :

(a) the petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only) before the Superintendent of the concerned prison, in which the petitioner has been confined;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each, before the concerned Magistrate 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) On releasing, the petitioner shall report before the respondent police, as and when required for interrogation.

(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 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];

(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/-
07/06/2021

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 METROPOLITAN MAGISTRATE COURT NO.II,
EGMORE, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
G3 KILPAUK POLICE STATION,
KILPAUK, CHENNAI.

+1CC to M/S.P.VENKATRAMAN Advocate on payment of necessary charges SR NO.6377

CRL OP.9962/2021

Date :07/06/2021

MK:08/06/2021