



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.12523 of 2021

Zupair Basha

.. Petitioner

Vs.

The State Rep. By
Inspector of Police,
AWPS, Hosur,
Krishnagiri District.
Cr.No.12 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.12 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Thirumoorthy

For Respondent : Mr.A.Gopinath
Government Advocate (Criminal Side)

ORDER

The petitioner who was arrested on 15.06.2021 and remanded to judicial custody for the offences under Section 363, 366, 109 of IPC @ 363, 366, 109 of IPC and Section 3 and 4 of POCSO Act, 2012, in Crime No.12 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner sexually assaulted the victim girl. Based on the complaint given by the father of the victim girl, the law enforcing agency registered a case against the petitioners.

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case and the petitioner has been in jail from 15.06.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner sexually assaulted the victim girl. He further submits that the statement of the victim girl u/s 164 Cr.P.C. has been recorded. However, he opposed to grant bail to the petitioner.



5. On perusal of the statements recorded under Section under 164 of Cr.P.C, it is made clear by the victim girl and the petitioner are lovers. Apart from that there is no specific allegation against the petitioner.

6. Considering the facts and circumstances of the case and as per the statement of the victim girl u/s 164 Cr.P.C., the victim girl had admitted that there is no specific allegation against the petitioner also considering the fact that the petitioner having been under incarceration from 15.06.2021, this Court is inclined to grant bail to the petitioner with following conditions:

6. 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, each for a like sum to the satisfaction of the Judicial Magistrate No.II, Hosur, 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/-
02/08/2021

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.



1 THE JUDICIAL MAGISTRATE,
NO.II, HOSUR.

2 THE CHIEF JUDICIAL MAGISTRATE
KRISHNAGIRI [FOR INFORMATION]

3 THE SUPERINTENDENT
CENTRAL PRISON, SALEM

4 THE INSPECTOR OF POLICE,
AWPS, HOSUR,
KRISHNAGIRI DISTRICT.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. R.THIRUMOORTHY Advocate on payment of necessary
charges

CRL OP.12523/2021

Date :02/08/2021

APN 03/08/2021