

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixth day of September Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.16082 of 2021

KUMAR @ SIVAKUMAR

[PETITIONER / ACCUSED]

Vs

THE STATE OF TAMILNADU REP.B
THE INSPECTOR OF POLICE,
AMMAPET ALL WOMEN POLICE STATION,
SALEM DISTRICT.
(CR.NO.10/2020)

[RESPONDENT]

For Petitioner : M/S.A.V.ARUN Advocate

For Respondent : MR.A.GOPINATH, Govt. Advocate (Crl. Side)

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner who was arrested on 09.06.2021 and remanded to judicial custody for the offence under Sections 363, 366, 342, 346 of IPC and Section 5(1), 5(g) read with Section 6 of POCSO Act 2012 and Section 457 and 506(i) of IPC in Cr.No.10 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that A1 had illegal intimacy with the mother of the victim and thereafter, A1 got married with some other woman. On an earlier occasion, A1 threatened the victim and sexually assaulted the victim. The petitioner is the close friend of A1. On 25.02.2020, when the victim was alone in the house, the petitioner herein sexually assaulted the victim. On 23.05.2020, the petitioner kidnapped the victim and gave some medicine mixed with the cool drinks. When the victim girl was in semi sedition, A1 and the petitioner have alternatively made penetrative sexual assault upon the victim.

3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution. The petitioner is arrayed as A2 and he is the friend of A1. The de facto complainant, who is a mother of the minor victim girl,

had illegal intimacy with A1. A1 got married with some other woman. In order to wreck vengeance, she lodged a false complaint against the petitioner and A1 and he is in prison from 09.06.2021. Hence, he seeks bail to the petitioner.

4. The learned Government Advocate submitted that the victim has produced before the learned Judicial Magistrate-IV, Salem and recorded the 164 statement. In which, she stated that on 23.05.2020, the petitioner made a false promise to the victim girl to bring her father back to her home. On believing his words, the victim went with the petitioner where they were living earlier. At the time, A1 gave a cool drinks to the victim. When she drunk the same, she was unconscious. Using the situation, A1 and the petitioner raped the victim girl alternatively. He further submits that this Court had earlier dismissed the bail application in CrI.O.P.No.11958 of 2021 dated 19.07.2021. Hence, he vehemently objected to grant bail to the petitioner.

5. On perusal of 164 statement, the victim stated serious allegation against the petitioner and other accused person,

6. Considering the facts of the case and perusing the 164 statements and this Court had earlier dismissed the bail application for the petitioner in CrI.O.P.No.11958 of 2021 dated 19.07.2021, this Court is not inclined to grant bail to the petitioner. Accordingly, this criminal original petition is dismissed.

-sd/-
06/09/2021

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 INSPECTOR OF POLICE,
AMMAPET ALL WOMEN POLICE STATION,
SALEM DISTRICT.

2 THE OFFICER INCHARGE,
DISTRICT JAIL, SALEM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S.A.V.ARUN Advocate on payment of necessary charges

CRL OP.16082/2021

Date :06/09/2021

CSK 20/09/2021