

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.20428 of 2020

V.Jagadish

... Petitioner

Vs.

1. The State Rep. by
The Inspector of Police,
Virugambakkam Police Station,
Chennai District.
(Crime No.654 of 2020) ... Respondents
2. The State by
Inspector of Police,
W-27, All Women Police Station,
Vadapalani,
Chennai District
(2nd respondent is impleaded as per order
of this Court dated 08.01.2021 in Crl.M.P. No.8938 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.654 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. J.C.Vasudevan

For Respondent : Mr.M. Prabavathy,
Additional Public Prosecutor

ORDER

(The case has been heard through video conference)

The petitioner, who is the sole accused, was arrested and remanded to judicial custody on 03.11.2020 for the offence punishable under Section 366 of IPC r/w. 6 of POCSO Act, in Crime No.654 of 2020, seeks bail.

2. The case of the prosecution is that on 27.10.2020, the petitioner said to have kidnapped the victim girl, aged about 17 years and sexually assaulted her. Hence, a case has been registered against the petitioner based on the complaint given by the father of the victim.

3. The learned counsel for the petitioner would submit that the the victim girl and the petitioner loved each other and the victim girl, on her own volition, eloped with the petitioner. He would further submit that 164 CRPC statement of the victim has been recorded, in which, the victim has admitted that on her own will , she left the parental home and eloped with the petitioner. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that victim is a minor girl. The petitioner kidnapped the victim with an intention to sexually assault her. She would further submit that 164 CRPC statement of the victim has been recorded. However, she opposed to grant bail to the petitioner.

5. Considering the fact that in 164 CRPC statement of the victim, the minor girl on her own, left the home and gone with the petitioner and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and on further conditions that:

(b) 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;

(c) the petitioner, on his release from prison, shall report before the respondent police as and when required for interrogation.

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

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

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

(g) 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];

(h) 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/-
08/01/2021

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 SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT, CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
VIRUGAMBAKKAM POLICE STATION,
CHENNAI DISTRICT.

4 THE INSPECTOR OF POLICE,
W-27, ALL WOMEN POLICE STATION,
VADAPALANI,
CHENNAI DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

+1 CC to M/S.I.C.VASUDEVAN Advocate on payment of necessary
charges SR.NO.244

CRL OP.20428/2020

Date :08/01/2021

TA-11/01/2021

TA-21/01/2021

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