

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Cr1.O.P.No.20711 of 2020

Rajasekar

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
All Women Police Station,
Cheyyar,
Thiruvannamalai District.
(Crime No.8 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.8 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. V.R.Appaswamee

For Respondent : Mr.M. Prabavathy,
APP

O R D E R

(The case has been heard through video conference)

Petitioner is the sole accused. He was arrested and remanded to judicial custody on 15.10.2020 for the offence punishable under Section 376(2)(n) of IPC and Sections 4 & 6 of the Protection of Child from Sexuaal Offences Act, 2012 and seeks bail.

2. The case of the prosecution is that the petitioner had sexual intercourse with the defacto complainant on the promise that he would marry her. Hence, a case has been registered against the petitioner.

3. The counsel for the petitioner would submit that the petitioner has been falsely implicated in this case. He would further submit that the petitioner was arrested and remanded to judicial custody on 15.10.2020. Despite the lapse of statutory period of 90 days in the case, the respondent so far not filed the final report. In the said circumstances, the petitioner is entitled for statutory bail under Section 167(2) Cr.P.C. Hence, he prays for grant of bail.

4. The learned Additional Public Prosecutor would submit that since DNA report is not yet received, the respondent police is not in a position to file final report within 90 days, now the final report is ready and she oppose to grant bail to the petitioner.

5. Considering the said facts and circumstances and the fact that the respondent has not filed the final report in the case despite the lapse of statutory period, this Court is left with no other option except to grant bail. Hence, this Court is inclined to grant bail to the petitioner in both the petitions 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 Judicial Magistrate, Cheyyar, 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 daily at 10.30 a.m.,. until further orders.

(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/-
18/01/2021

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 JUDICIAL MAGISTRATE,
CHEYYAR

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVANNAMALAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
CHEYYAR,
THIRUVANNAMALAI DISTRICT.

+1 CC to M/SV.R.APPASWAMEE Advocate on payment of necessary
charges SR.No.420

CRL OP.20711/2020

Date :18/01/2021

cs 19/01/2021