

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.21032 of 2020

1.Muruganantham
2.Kalidass

... Petitioners

Vs.

The State Rep. by
The Inspector of Police,
All women Police Station,
Nagapattinam,
Nagapattinam District.
(Crime No.17 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.17 of 2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.Muruga Bharathi

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

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 11.11.2020 for the offences punishable under Sections 8 & 7 of Protection of Child from Sexual Offence Act 2012 and Sections 354 C, 354 D of IPC in Crime No.17 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 28.10.2020, when the victim girl was taking bath in the village pond, both the petitioners tried to assaulted her sexually and A1 hold her hands and A2 patted on her buttocks. Hence, the complaint came to be registered.

3. The learned counsel for the petitioner would submit that both the petitioners and the defacto complainant belongs to the same village. Due to some previous enmity, a false case has been lodged against the petitioners. He would further submit that eventhough the

occurrence has taken place on 28.10.2020, complaint has been given only on 11.11.2020., i.e., after a delay of 13 days. and hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioners sexually assaulted the victim girl, who is the minor, aged about 16 years. Since the petitioners threatened the family members of the defacto complainant, complaint has been given belatedly. Hence, she vehemently opposed to grant bail to the petitioners.

5. Considering the facts and circumstances of the case, and also considering the fact that the complaint has been given with a delay of 13 days and taking note of the period of incarceration, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) each with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court under POCSO Act, Nagapattinam, Nagapattinam District 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 petitioners shall stay at Trichy and report before the Inspector of Police, Trichy Cantonment Police Station daily at 10.30 a.m. for a period of four weeks and thereafter, before the respondent police as and when required for interrogation.

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

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

(f) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
07/01/2021

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 SESSIONS JUDGE,
SPECIAL COURT UNDER POCSO ACT,
NAGAPATTINAM,
NAGAPATTINAM DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NAGAPATTINAM,
NAGAPATTINAM DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY.

6 THE INSPECTOR OF POLICE,
TRICHY CANTONMENT POLICE STATION,
TRICHY.

+1 CC to M/S R.MURUGA BHARATHI Advocate on payment of
necessary charges SR.NO.191

CRL OP.21032/2020

Date :07/01/2021

TA-08/01/2021

WEB COPY