

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.01.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

CrI.O.P.No.20956 of 2020

S.Sadhasivam

... Petitioner

Vs.

The State Rep. by

The Inspector of Police,
Anti Trafficking Cell, CBCID,
Egmore, Chennai,
(Crime No.3 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.3 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. M. Jaikumar

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

ORDER

(The case has been heard through video conference)

Totally there are 9 accused. The petitioner, who is A2, was arrested and remanded to judicial custody on 29.10.2020 for the offence punishable under Sections 5(1), 5(j), (ii) 6 of POCSO Act 2012, 370 IPC and Section 3(1), 4(1) Immoral Traffic (Prevention Act) 1956 in Crime NO.3 of 2020. seeks bail.

2. The victim girl is a minor. The case of the prosecution is that A5 in this case, who is the pimp, has taken the victim girl under the guise of getting job in Chennai and involved her in prostitution, where, the other accused had sexually assaulted her. This petitioner is alleged to have one of the person, who had sexually assaulted the victim. Hence, a case has been registered against the petitioner and other accused persons.

3. The learned counsel for the petitioner would submit that co-accused in this case had been arrested and released on bail. He would further submit that 164 CRPC statement of the victim has also been recorded, in which, there is no specific allegation against this petitioner/A2. Hence, he seeks for grant of bail to the

4. The learned Additional Public Prosecutor would submit that it is a very pathetic case. A minor girl has been sexually assaulted by various persons and she became pregnant. DNA test report is awaited. She would further submit that all other co-accused had been released on bail. She fairly submitted that there is no specific allegation against this petitioner in the 164 CRPC statement. However, she opposed to grant bail to the petitioner.

5. Considering the fact that there is no specific allegations against this petitioner in the statement given by the victim and also the fact that all other co-accused in this case were released on bail 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 Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu, 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/-
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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL
OF CASES UNDER POCSO ACT,
CHENGALPATTU.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ANTI TRAFFICKING CELL, CBCID,
EGMORE, CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

+1 CC to M/S.M.JAIKUMAR Advocate on payment of necessary charges SR.NO.236

CRL OP.20956/2020

Date :08/01/2021

TA-11/01/2021

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