



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.23839 of 2021

Sathish

... Petitioner

Vs.

The State Rep.by
Inspector of Police,
Jolarpettai Police Station,
Thiruppathur District.
(Crime No.417 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.417 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Sathish Kumar

For Respondent : Mr.N.S.Suganthan
Government Advocate

ORDER

The petitioner who was arrested and remanded to judicial custody on 09.11.2021 for the offences under **Sections 366 and 376 IPC, r/w 5(1) and 6 of POCSO Act 2012**, in Crime No.417 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that while the victim girl travelling with her family in an auto proceeding to a temple, the petitioner along with co-accused forcibly kidnapped the victim girl in a two wheeler and committed penetrative sexual assault against the victim girl aged about 16 years. Hence the complaint.

3. The learned Counsel for the petitioner would submit that the victim girl is none other than the uncle's daughter of the petitioner and both of them were in love affair with each other, initially the parents of the victim girl had consented for the marriage, with regard to the property dispute, the marriage was arranged against the wish of the victim girl and the petitioner and the victim girl had



jointly eloped and in order to take revenge, the present complaint was preferred. He further submits that the petitioner has been suffering incarceration for one month from 09.11.2021. Hence, he seeks for grant of bail to the petitioner.

WEB COPY

4. The learned Government Advocate (Crl. Side) would raise objection stating that the statement has been recorded from the victim girl under Section 164 Cr.P.C and now, the victim girl is under the care of her grandmother and he further submits that the investigation was almost completed.

5. A perusal of 164 Statement reveals that there is no penetrative sexual assault as against the petitioner and also the considering the fact that the investigation was almost completed and also considering the period of incarceration undergone by the petitioner, this court is inclined to grant bail to the petitioner with conditions.

5. Accordingly, the petitioner is ordered to be released on bail on his executing 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 Sessions Judge for Exclusive Trial of Cases (Under POCSO Act) Judge, Vellore, Vellore District** and on further conditions that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the respondent police daily at 10.30 a.m. until further orders;

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

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

(e) the petitioner shall not have any communication with defacto complainant and victim girl;

(f) on breach of any of the aforesaid conditions, the learned 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]***; and;



(f) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
09/12/2021

WEB COPY

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 SESSIONS JUDGE,
EXCLUSIVE TRIAL OF CASES
(UNDER POCSO ACT) JUDGE,
VELLORE, VELLORE DISTRICT.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
JOLARPETTAI POLICE STATION,
THIRUPPATHUR DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

+1 CC to M.SATHISH KUMAR Advocate on payment of necessary charges SR.NO.14407

CRL OP.23839/2021

Date :09/12/2021

TA-10/12/2021