



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 01/09/2021

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PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI

CRL OP(MD) No.10697 of 2021

Thankapandiyan

... Petitioner/Accused No.2

Vs

The State Represented by
The Inspector of Police,
C.B.C.I.D., South
Nagercoil,
Kanyakumari District.
[Crime No.8 of 2020]

... Respondent/Complainant

For Petitioner : Mr.C.Emalias for Mr.P.T.RAMESHRAJA,
Advocate.
For Respondent : T.Senthil Kumar,
Government Advocate (Crl.Side)
For Intervenor : Mr.Poorna chandran,
Advocate.

PETITION FOR BAIL Under Sec.439 of Cr.P.C.

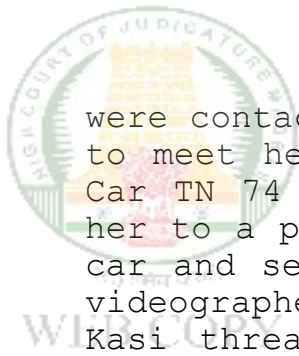
PRAYER :-

For Bail in Crime No.8 of 2020 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner was arrested in connection with Crime No.8 of 2020 on the file of the Inspector of Police CBCID, Nagercoil, Kanyakumari District for the offence punishable under Sections 376, 354A, 354B, 354C, 354D, 294(b) IPC and Section 66 B of the Information Technology Act altered into Section 376, 354A, 354B, 354C, 354D, 294(b) and 201 IPC and remanded into judicial custody moved this bail application for grant of bail.

2.The case of the prosecution is that one Gomathi of Nagercoil lodged a complaint that she is a graduate, residing with her parents in Nagercoil and working in a private organisation. From 26th August 2019 she had acquittance with Kasi through social media and they



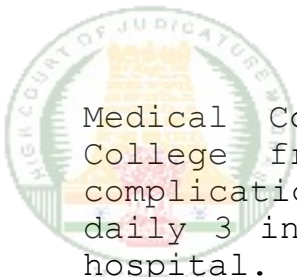
were contacting through mobile and Kasi proposed his love and wanted to meet her. Believing his words, she went along with Kasi in his Car TN 74 AT 5518 Red Colour Wolks Vegan Polo vehicle and he took her to a poultry farm at Therakalpudhur and locked the doors of the car and sexually assaulted and raped her despite her objection and videographed the same without her knowledge. Subsequently, the said Kasi threatened her that he is having the videograph of her and demanded to heed his words and investigation revealed that this petitioner has concealed the A1 Kasi's laptop and cellphone and tampered with the electronic gadgets of his son A1 Kasi in order to safeguard him.

3.The learned Counsel for the petitioner submits that the petitioner is an innocent and he is in no way connected with the allegation levelled in this case. This petitioner being the father of A1 has been falsely implicated in this case. Further only with the aid of Section 201 IPC, this petitioner is implicated in this case and the rest of the offences are not made out against the petitioner.

4.The learned Counsel further submits that the allegation at the time of investigation and in the charge sheet has pin pointed only the petitioner's son A1. Unfortunately, the petitioner has been implicated in this case only because he happens to be the father of A1 Kasi. There is not even iota of evidence against this petitioner. The allegation against this petitioner is that he has tampered with the evidence of electronic gadgets to screen is son. The statement of the Assistant Director of Computer Forensics Division reveals that the files from the laptop were transferred to another hard disk. The petitioner is not educated enough to handle the gadgets and he studied only upto 5th standard. Further the Inspector of Police, AWPS Nagercoil Police Station recovered the hard disk on 26.04.2020 through the petitioner, but he was arrested only on 30.06.2020.

5.The learned Counsel also submits that the final report has been filed in this case before the learned Sessions Judge, Mahila Court, Nagercoil, Kanyakumari District and the same was taken on file in S.C.No.41 of 2021 and pending for trial. When the final report contains 386 pages, only pages 270 to 386 were provided to the petitioner and when approached trial Court under Section 207 CrPC for the left out documents, but he could not get the same. Therefore, he filed an application in Crl.O.P(MD)No.9479 of 2021 and the matter was adjourned to 12.08.2021.

6.The learned Counsel further submitted that the petitioner is 65 years old man and having multiple ailments and 50% disability with kneecap displacement in his both legs, having been in custody from 30.06.2020 for the past 395 days, his health is deteriorating. During July 2020 while the petitioner was in judicial custody, the

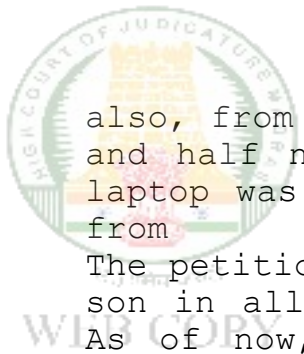


Medical College. Again he was admitted in Tirunelveli Medical College from 28.01.2021 to 06.02.2021 for diabetics and other complications. He is also suffering from BPPV disorder and is taking daily 3 insulin injections for his irregular blood sugar at Prison hospital.

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7.The learned Government Advocate (Crl Side) appearing for the respondent Police submitted that A1 Kasi has acquaintance with the defacto complainant in facebook in the month of August 2019 and continuously followed her. He proposed his love to her over phone and took her in his red colour car to Vadasery. On 19.09.2020 at about 06.30 pm, A1 took the victim girl in a car bearing Registration No.TN 74 AT 5518 to his poultry farm at Theraykalpudhur near Thiravium hospital. Around 7.00pm on the day in the said car he raped her against her wish and objection and recorded the same without her knowledge. Further he threatened the victim girl using the said video and continued to exploit her. A1 Kasi saved all the recorded videos and images in his apple laptop and after his arrest, the father of A1, the petitioner herein intentionally screened the offence, and hid the apple laptop and apple cell phone and his accessories in the poultry farm near a sump at Theraykalpudhur near Thiravium hospital for destroying of the evidence. In this connection the petitioner /A2 was arrested and remanded into judicial custody on 19.11.2019. The final report has been filed in this case before the learned Judicial Magistrate No.I, Nagercoil and the same was assigned with PRC No.09 of 2020 and was committed to the learned Sessions Judge (Mahila) Nagercoil and it was taken on file in S.C.No.41 of 2021, dated 10.03.2021 and posted for hearing on 19.08.2021.

8.The learned Government Advocate (Crl Side) submits that even though the petitioner is in judicial custody, through his associate he threatened the defacto complainant Dravid in Crime No.4 of 2020 and attempted to tamper the witnesses. On the complaint of the defacto complainant Dravid (PW1), another case was also registered as against this petitioner and his son Kasi A1/ on 28.08.2021 in Crime No.882 of 2020 on the file of the Kottar Police Station for the offence punishable under Sections 341, 506(i) and 195 (A) IPC. Again on 15.12.2020 at the instance of this petitioner and his son Kasi, Jeya Vikraman, Advocate Agastheeswaran, Advocate Balai and four known persons kidnapped the defacto complainant therein and threatened him, tampered the witnesses and in this connection, another case was registered in Vadasery Police Station in Crime No.646 of 2020, under Sections 147, 294 (b), 406, 365, 468, 323 and 506 (i) IPC. He further submits that though final report is filed, if the petitioner is released on bail, then there is every possibility of the petitioner tampering the witnesses. A1 Kasi had cheated several girls, captured videos, when they were in a compromising position and by using the same, threatened the victims and continued his illegal activities. The investigation reveals that such girls have been exploited by A1. In that case



also, from the laptop of A1, they have retrieved more than 1900 full and half nude photographs of women and above 400 videos and this laptop was concealed by this petitioner and the same was recovered from him by the investigation agency. The petitioner, the father of A1 knowingly or unknowingly helped his son in all his illegal activities and this is a matter for trial. As of now, there are materials to show that the petitioner has attempted to conceal the evidence as against the petitioner's son and also attempted to threaten the witnesses. This is the 6th bail petition and considering the nature of allegation as against the petitioners, the earlier bail applications were dismissed by this Court.

9.This Court paid its anxious consideration to the rival submission and perused the materials placed on record.

10.The petitioner was arrested and remanded into judicial custody on 30.06.2020. He is in judicial custody for more than 400 days. The case in Crime No.8 of 2020 was registered on 19.11.2020 and after investigation, the investigation agency has also filed a final report before the learned Judicial Magistrate No.I and and petitioner was provided with copies of the final report and was taken on file in S.C.No.41 of 2021 by the learned Sessions Judge (Mahila) Nagercoil. The allegations against the petitioner's son are serious in nature and there are incidences of threat to the witnesses, even when they are in judicial custody and subsequent complaints have also been registered.

11.Considering the serious allegations against A1 Kasi and the nexus of this petitioner with A1, the earlier incidence of threat to the witnesses and the conduct of the petitioner, the earlier bail applications of the petitioner, even after filing of the final report were dismissed by this Court with elaborate discussion and now there is no change in circumstance and therefore, this Court is not inclined to grant bail to the petitioner.

12.In the result, this petition is dismissed.

sd/-

01/09/2021

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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



TO

1 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI.

2 THE INSPECTOR OF POLICE
C.B.C.I.D.-SOUTH, NAGERCOIL,
KANYAKUMARI DISTRICT.

3 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1. CC to Mr.P.T.RAMESHRAJA, Advocate SR.No.5875

ORDER

IN

CRL OP(MD) No.10697 of 2021

Date :01/09/2021

SS/JC/SAR-IV/06.09.2021 : 5P/5C