



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.01.2022

CORAM:

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

Cr1.O.P.No.307 of 2022

Gugan

.. Petitioner

Vs.

The State Rep by
The Inspector of Police,
Mangadu Police Station,
Chennai.
(Crime No.695 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.695 of 2021 pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Shankar

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 09.12.2021 for the offences under Sections 366A of IPC and Section 5(1), 5(j), (ii) r/w 6 of Protection of Children from Sexual Offence Act, 2012 in Crime No.695 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim is aged about 17 years and the petitioner is aged about 31 years and prior to the occurrence, the victim girl was working in a private company. Whenever, the victim girl was proceeding by walking in a way to her job, the petitioner had stalked the victim girl and proposed his love to her, but, the victim girl had refused the same. It is further alleged that the petitioner induced the victim girl to come along with him and he promised to marry her, following which, she eloped with the petitioner and went to Bangalore, there he had forcibly raped against her will and committed penetrative sexual assault on her repeatedly, thus, the victim girl became pregnant. Hence the complaint.



3. The learned Counsel for the petitioner submits that the petitioner has not committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. He further submits that the victim girl on her own volition went along with the petitioner and got married, now, the victim girl and the petitioner had settled at Chennai and started their matrimonial life at Chennai. He further submits that the petitioner has been suffering incarceration for 15 days from 19.12.2021. He further submits that the petitioner is ready and willing to take care of his wife/victim girl and to that effect the petitioner shall file an undertaking affidavit before the Court below. Hence, he seeks to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would raise objection stating that the statement of the victim girl under Section 164 Cr.P.C has been recorded. He further submits that the investigation was almost completed.

5. Considering the facts and circumstances of the case and also the fact that petitioner is ready to take care of the victim girl and to that effect, the petitioner shall file an undertaking affidavit before the Court below, this court is inclined to grant bail to the petitioner with conditions.

[a] the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

[b] the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

[c] 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;

[d] the petitioner shall report before the respondent police on every Thursday at 10.30 a.m. until further orders;

[e] the petitioner shall file an undertaking affidavit before the concerned Court after lockdown, failing which the bail granted by this Court shall stand dismissed automatically;

[f] the petitioner shall not tamper with evidence or witness either during investigation or trial;



[g] the petitioner shall not abscond either during investigation or trial;

[h] 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;

[i] if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

07/01/2022

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 COURT FOR EXCLUSIVE
TRIAL OF CASES UNDER POCSO ACT,
CHENGALPATTU

2 INSPECTOR OF POLICE,
MANGADU POLICE STATION,
CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

CC to M/S S.SHANKAR Advocate on payment of necessary charges
Sr.357

CRL OP.307/2022

Date :07/01/2022

RVR 10/01/2022