

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Friday, the Sixth day of July Two Thousand Eighteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL ORIGINAL PETITION No.16816 of 2018

JEGADESH @ SOMU

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY ITS, [RESPONDENT]
THE INSPECTOR OF POLICE,
W-26 ALL WOMEN POLICE STATION,
ASHOK NAGAR, CHENNAI
CR.NO.7 OF 2018.

For Petitioner : M/S.S.KARTHIYAYINI SENTHILVEL Advocate

For Respondent : MR.M.MOHAMED RIYAZ, ADDITIONAL PUBLIC PROSECUTOR

PETITION FOR ANTICIPATORY BAIL Under Sec. 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner seeks anticipatory bail in Crime No.7 of 2018 registered by the respondent police for the alleged offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, Section 4 of the Tamil Nadu Prohibition of Women Harassment Act r/w 506(i) of IPC.

2. The case of the prosecution as per the de-facto complainant one Gowri is that her daughter Haritha is studying +2 in Fathima School, Kodambakkam and that while she was studying 8th standard in a school in T.Nagar, the petitioner used to speak with her and thereby, she had put her daughter in Vetri Vikas School in Salem. After completion of 10th standard, she was again put in the Fathima School and during November, 2017, she had vomited. After taking her to hospital, she was found to be pregnant. When the defacto complainant had enquired her daughter, she had informed that the petitioner had physical affair with her during September 2017 and thereby, she became pregnant and the petitioner had told her if only she gets pregnant, the parents will agree for marriage. However, the defacto complainant had aborted the pregnancy. While so, on 23.06.2018, when her daughter had gone to buy books, the petitioner had pulled her hands and had misbehaved with her and when the defacto complainant had questioned the petitioner herein, he had abused her with filthy language.

3. The learned counsel for the petitioner would submit that the petitioner and the daughter of the defacto complainant are in

love with each other almost 7 years. He would submit that the daughter of the defacto complainant was born on 05.06.2000 and she has attained majority and she also wants to marry the petitioner herein, however, the defacto complainant and her husband are preventing her from getting married to the petitioner and they have kept her in illegal confinement. He would also submit that the alleged victim girl had sent letter to him and also to the Commissioner of Police stating that she had been kept in illegal confinement. He would further submit that she is a major and that she wants to marry the petitioner. He would submit that for that reason best known, the victim has not been taken to the Magistrate for recording her statement under Section 164(3) Cr.P.C till date. The learned counsel has also produced several photographs of the petitioner and the defacto complainant's daughter/victim girl taken together at several places and he has also produced the copy of the birth certificate, pan card and also community certificate issued to the victim/daughter of the defacto complainant to prove that the victim is born on 05.06.2000 and that she has attained majority.

4. The learned Additional Public Prosecutor would submit that the complaint has been given by one Gowri, who is the mother of the victim Haritha, aged about 17 years. He would submit that the allegation is that during the month of November 2017, the petitioner had sexual affair with her and thereby, she became pregnant and thereafter, she aborted her pregnancy.

5. I have gone through the FIR and also the documents filed along with the petition. Taking into consideration the facts of the case and the submissions made by the counsels, I am inclined to grant anticipatory bail to the petitioner subject to the following conditions:

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned **[*]Hon'ble Mahila Court, High Court Building, Chennai-104** on condition that the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the said Magistrate, on further condition that:

[a] if the petitioner failed to surrender before the said Magistrate within a period of fifteen days from the date of receipt of a copy of this order, this Order shall stand automatically cancelled.

[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] 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]**.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

06/07/2018

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.

[*]Satisfaction Court is amended and Time granted by this Court to comply with the conditions imposed vide order dated 06.07.2018 in Crl.O.P.No.16816 of 2018 is extended for a period of two weeks from the date of receipt of amended copy of this order, as per order of this court dated 25/07/2018 made in CRL.MP.NO.9775 OF 2018 IN CRL.OP.NO.16816 OF 2018

TO

1 **[*] THE Hon'ble Mahila Court,**
High Court Building, Chennai-104

2 THE METROPOLITAN MAGISTRATE,
NO.XVII, SAIDAPET, CHENNAI.

3 THE CHIEF METROPOLITAN
MAGISTRATE, EGMORE, CHENNAI
[FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-26 ALL WOMEN POLICE STATION,
ASHOK NAGAR, CHENNAI.

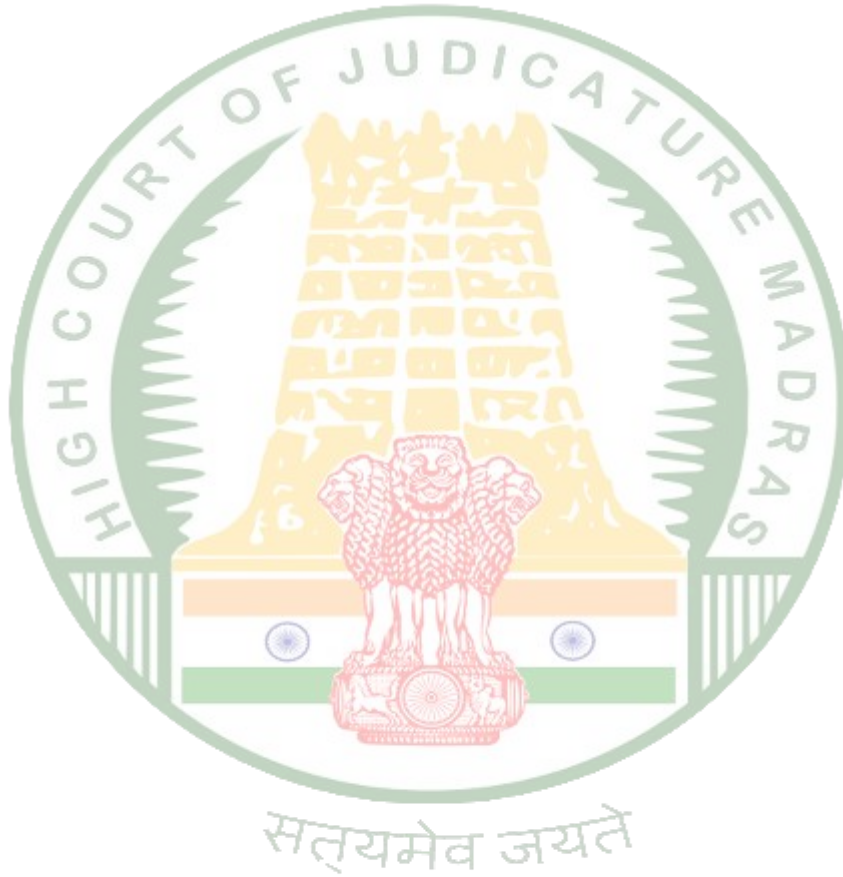
+1CC to M/S.S.KARTHIYAYINI SENTHILVEL Advocate on payment of necessary charges SR NO.

CRL OP.16816/2018

Date :06/07/2018

MK:13/07/2018

MK:02/08/2018



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