



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Wednesday, the Third day of October Two Thousand and Eighteen

PRESENT

The Hon`ble Mr.Justice G.K.ILANTHIRAIYAN

CRL OP(MD) No.14864 & 14897 of 2018

MURUGAN

... PETITIONER / ACCUSED NO.2
(in CRL OP(MD) No.14864 of 2018)

NIRMALA DEVI

... PETITIONER / ACCUSED NO.1
(in CRL OP(MD) No.14897 of 2018)

Vs

THE STATE THROUGH,
THE DEPUTY SUPERINTENDENT OF POLICE,
CB-CID, SPECIAL UNITS,
VIRUDHUNAGAR.
(CRIME NO. 01 OF 2018)

... RESPONDENT / COMPLAINANT
(in CRL OP(MD) No.14864 of 2018)

THE STATE REPRESENTED BY,
THE INSPECTOR OF POLICE,
CB-CID, SPECIAL UNIT,
VIRUDDHUNAGAR DISTRICT.
CRIME NO.1 OF 2018

... RESPONDENT / COMPLAINANT
(in CRL OP(MD) No.14897 of 2018)

For Petitioner : Mr.T.LAJAPATHI ROY, Advocate.
(in CRL OP(MD) No.14864 of 2018)

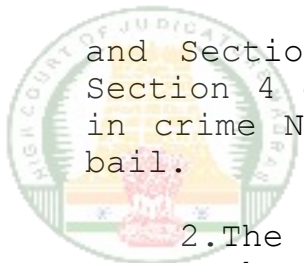
Mr.S.MAHALINGAM, Advocate.
(in CRL OP(MD) No.14897 of 2018)

For Respondent : Mr.K.CHELLAPANDIAN, Additional Advocate General
Assisted by Mr.K.K.RAMAKRISHNAN,
Additional Public Prosecutor (in Both Petitions)

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

ORDER : The Court Made the following order :-

The petitioner/A2 in Crl.O.P.(MD) No.14864 of 2018, who was arrested and remanded to judicial custody on 24.04.2018 for the offences under Sections 370, 511 of I.P.C. and Section 67 of Information Technology Act @ 120(b) read with 370(3), 354(a) of IPC

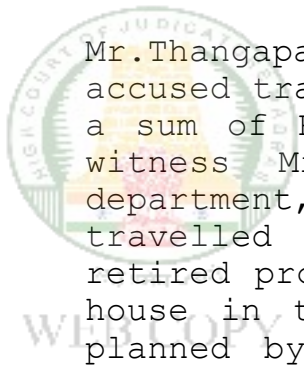


and Section 5(1)(A) and 9 of Immoral Traffic Prevention Act and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act in crime No.1 of 2018 on the file of the respondent police, seeks bail.

2.The petitioner/A1 in CrI.O.P.(MD) No.14897 of 2018, who was arrested and remanded to judicial custody on 17.04.2018 for the offences under Sections 370(3), 370(i)(a), 120(B) read with 370(3) and 354(A) of IPC and 5(1)(a) and 9 of Immoral Traffic Act, 1956 and Section 67 of Information Technology Act, 2000 and Section 4 of the Tamil Nadu Prohibition of Harassment of Women Act in crime No.1 of 2018 on the file of the respondent police, seeks bail.

3.The case of the prosecution is that on a complaint from the Secretary of Devanga Arts College, Aruppukottai, a case has been registered in crime No.170 of 2018 for the offences under Sections 370, 511 of I.P.C read with 67 of Information Technology Act, 2000 as against three persons viz., alleging that four students of their college, viz., Archana, Lavanya, Geetha and Rupa Devi were lured by the first accused into illegal sexual act. She tried to convince them by frequent SMS and phone calls stating that they will be benefitted both financially and academically and if they agreed to give sexual favours to officials of Madurai Kamaraj University. Further, he alleged that on receipt of complaints from the victim girls, the college management suspended the first accused on 21.03.2018. Due to the seriousness of the crime, the entire investigation has been transferred to the Superintendent of Police, CBCID Special Units, Chennai and entrusted to the Inspector of Police, CBCID Special Units, Virudhunagar District in crime No.1 of 2018 and altered the offences under Sections 370(3), 370(1)(a) IPC read with 120(B), 370(3), 370(1)(a) read with 109 IPC, 370(3), 370(1)(a) read with 511 of IPC, 354(A) of IPC and 5(1)(a) and 9 of Immoral Trafficking Prohibition Act, 1956, 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998 and 67 of Information Technology Act, 2000. Totally there are three accused viz., A1.P.Nirmala Devi W/o.Saravana pandian, A2.Murugan, S/o.Vallaisamy and A3.Karuppasamy S/o.Sekar.

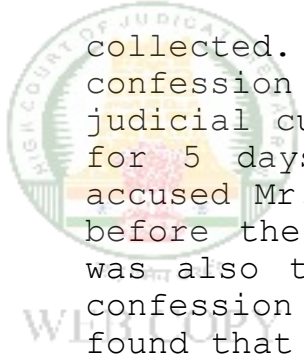
4.The learned counsel appearing for the petitioner/A2 in CrI.O.P.(MD) No.14864 of 2018 would submit that only on the confession of A1, the petitioner has been implicated and he is arraigned as A2, who is working as Assistant Professor in Madurai Kamaraj University. He would further contend that there is no material evidence available as against the petitioner to attract any of the offences as alleged by the prosecution. The petitioner was arrested and remanded to judicial custody and thereafter, he has been taken to police custody for 5 days and completely interrogated and recorded his confession. Even as per the confession of the petitioner, no incriminating evidence is collected by the respondent to connect the accused and to attract any offence as alleged by the prosecution. The petitioner did not have any direct access with the alleged victims for the purpose of demanding or requesting for sexual favours and to make any harassment against the alleged victims. Even as per the prosecution, one of the list of witnesses



Mr.Thangapandian stated that when the first accused and the second accused travelled in a car, he heard that the first accused demanded a sum of Rs.2 lakhs from the second accused. The other list of witness Mr.Vijadurai stated that being working in the same department, he is the friend of A3 and on 16.03.2018, when he travelled along with Murugan and Karuppasamy, they have seen the retired professor Murugadoss and while they were proceeded to their house in the car, A2 Murugan informed to A3 Karuppasamy that as planned by him, the first accused Nirmala Devi arranged college girls as assured by her. As per their plan, they will go to Idukki for tour. Further, the list of witness Mr.Palaniyandi stated that on 10.04.2018, A2 Murugan contacted him and requested to come to his home. Thereafter, he went to his house by a car and near Meenakshi Mission Hospital Solaimalai Cars, he stopped the car. While so, the first accused came by car and had talked to A2 Murugan. At that time, A2 handed over one cover to A1. Thereafter, A1 had gone by her car and A2 Murugan boarded into Palaniyandi's car and told that he paid a sum of Rs.50,000/- to A1. Except these statements, no one even whisper about their overt act to connect the charges against the petitioners. Further, he would submit that A3 filed bail petition before this Court in CrI.O.P.(MD) No.11303 of 2018 and this Court was pleased to direct the respondent to file preliminary charge sheet on or before 16.07.2018 and supplementary charge sheet shall be filed on or before 10.09.2018. As directed by this Court, after completion of interrogation, the respondent filed the preliminary charge sheet and also the supplementary charge sheet. Further, he would submit that the petitioner is in incarceration from the date of arrest viz., on 24.04.2018. There is absolutely no chance for tampering the evidence or tampering any witnesses. Therefore, he sought for grant of bail to the petitioner/A2.

5.The learned counsel appearing for the petitioner/A1 in CrI.O.P.(MD) No.14897 of 2018 would submit that a false case is foisted as against the petitioner and there is no acceptable evidence to show the involvement of first accused in the alleged offence as alleged by the prosecution. The petitioner was arrested and remanded to judicial custody from 17.04.2018. The respondent also have taken the petitioner for their custody and interrogated her. The entire investigation has been completed and as directed by this Court, they filed preliminary charge sheet and supplementary charge sheet. Further, he would submit that the petitioner has been provided the copies and the case is posted on 04.10.2018 for framing of charges. If the petitioner is not enlarged on bail, it will cause prejudice to her right to appoint her counsel to defend her case, since, she is not able to engage counsel to defend her case and she is not able to instruct her counsel with full of her satisfaction and hence, he sought for bail to the petitioner/A1. He also adopted the arguments advanced by the learned counsel appearing for the petitioner/A2 in CrI.O.P.(MD) No.14864 of 2018.

6.The learned Additional Advocate General appearing for the respondent would submit that the first accused Nirmala Devi was taken into custody of CBCID police for 5 days from 20.04.2018 and on her confession, incriminating documents and evidences were

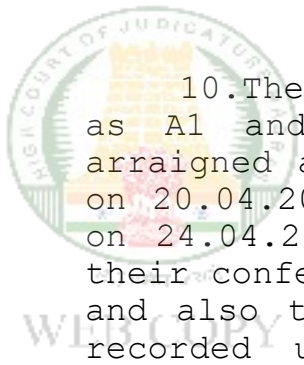


collected. As far as the second accused is concerned, on the confession of A1, A2 was arrested on 23.04.2018 and remanded to judicial custody. He was also taken police custody from 25.04.2018 for 5 days and his confession statement was recorded. Another accused Mr.Karuppasamy, who is arraigned as A3, surrendered himself before the Judicial Magistrate No.5, Madurai on 25.04.2018 and he was also taken police custody for 4 days from 26.04.2018 and his confession was recorded. All the confession statement of A1 to A3 found that there are incriminating evidence and materials to connect each of the accused and prima facie made out for the offences under Sections 370(3), 370(1)(a) IPC read with 120(B), 370(3), 370(1)(a) read with 109 IPC, 370(3), 370(1)(a) read with 511 of IPC, 354(A) of IPC and 5(1)(a) and 9 of Immoral Trafficking Prohibition Act, 1956, 4 of Tamilnadu Prohibition of Harassment of Women Act, 1998 and 67 of Information Technology Act, 2000.

7.He would further submit that the existence of design between the accused to commit the offence of trafficking of victim girls for sexual exploitation was clearly brought out from the statement of witnesses, which reveals that accused Murugan and Karuppasamy through Nirmala Devi had a desire to take the innocent girls to tourist spot for fulfilling their sexual desire. Further, he would submit that they all misused their official position to lure the young college girls through the first accused, who is working as Assistant Professor, Devanga Arts College. A2 is being the Assistant Professor of reputed University, he has indulged in such grave offence in his personal benefits. There is a possibility of accused to abscond and to tamper the evidence collected by the investigation agency. Most of the witnesses are young innocent girls from rural background and the accused being from the very same District may threaten the witnesses for their endeavor to escape from the clutches from the law.

8.Further he would submit that the release of the accused persons is likely to endanger the life of victims, who happen to be the students and pursuing their further education. There are prima facie evidence to substantiate that the accused persons have committed this gave crime. It is also seen from the statements of four victim girls, there are prima facie evidence as against the first accused to connect the charges. The interlinking of the accused persons also found from the confession statement of A1 to A3 and the statements of Thangapandiyan, Vijayadurai and Palaniyandi. Therefore, overall, there is prima facie materials to show that second and third accused insisted the first accused to provide young college girls for their sexual exploitation. The existence of design amongst the accused to commit the offence of trafficking has also been clearly brought out from the statement of witnesses. Further, he would cited various judgments of the Hon'ble Supreme Court of India and this Court and vehemently oppose the grant of bail to the petitioners.

9.Heard the learned counsel appearing for the petitioners in both petitions and the learned Additional Advocate General appearing for the State and also perused the materials available on record.



10.The petitioner in CrI.O.P.(MD) No.14897 of 2018 is arraigned as A1 and the petitioner in CrI.O.p.(MD) No.14864 of 2018 is arraigned as A2. A1 was arrested and remanded to judicial custody on 20.04.2018 and A2 was arrested and remanded to judicial custody on 24.04.2018. Both were taken to custody by the respondent and their confession statements were recorded. Preliminary charge sheet and also the supplementary charge sheet along with the statements recorded under Section 161(3) of Cr.P.C., are perused. The conversation between A1 and the victim girls are carefully perused by this Court with due attention and found that the first accused with the intention to lure the victim girls into illegal sexual act. She tried to convince the girls by sending frequent SMS and phone calls stating that they will be benefitted both financially and academically, if they are agreed to give sexual favours to the officials of Madurai Kamaraj University viz., A2 and A3. This Court already dismissed the bail petition of A3 Mr.Karuppasamy in CrI.O.P. (MD) No.11303 of 2018 by order dated 12.07.2018. The relevant portions of the said order is extracted herein:

"7.The prosecution has filed its counter affidavit and also placed materials collected during the investigation. It is seen that there were frequent calls between the petitioner and the first accused immediately prior to sending of the offending messages and making of calls by Nirmala Devi/first accused to the victim girls. There is prima facie material to show that this petitioner and A2 Murugan insisted the first accused Nirmala Devi to procure young college girls for sexual exploitation. The existence of design among the accused to commit the offence of trafficking has also been clearly brought out from the statement of witnesses.

8.The prosecution has also placed materials before this Court indicating that the petitioner is highly influential. Even though he is only a former scholar and is not working in the Madurai Kamraraj University, he appears to be a regular presence in the University campus. Some of the statements recorded under Section 161 of Cr.PC point to the networking abilities and wide contacts of the petitioner. The witnesses in this case hail from rural background and are all young and innocent. Therefore, the apprehension expressed by the prosecution that they would face dire threats from the petitioner is well founded.

9.This Court is therefore of the view that releasing the petitioner on bail may even endanger the lives of the victim girls. There is strong prima facie evidence to substantiate that the petitioner abetted the commission of the grave crime of human trafficking. ~~Since the number of victims is more than one, the punishment for the offence can even extend to life. Of course in this case there was only attempt to commit~~



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the offence of trafficking. As observed at the very outset, this is a case which shocked the conscience of the society. Even before the formal registration of the F.I.R, the conversation that took place between the first accused Nirmala Devi and the college girls was widely circulated in the social media. There was strong agitation by political parties and student organizations. Considering the sensitive nature of this case, investigation was transferred from the local police station and handed over to CB CID. Investigation is being headed at the level of the Superintendent of Police. This would show the enormous significance attached to this case.

10.This Court is prima facie convinced that the present petitioner is a man of considerable influence. The prime witnesses are young college girls and therefore their safety is of paramount importance. Letting the accused on bail would certainly prejudice fair trial. Witness protection is an imperative in criminal justice system. Therefore, this Court is of the view that this is one such exceptional case in which the accused will have to face the trial even while being in jail. Of course, the petitioner will have to be afforded certain facilities, so that he can give proper instructions to his counsel. In this regard, appropriate arrangements can be made on occasion to occasion basis after obtaining directions from the Judicial Magistrate.

11.The Additional Investigation Officer is present before me and he submits that as many as 10 reports are still awaited from the Forensic Lab, Chennai. He fairly submitted that they may require some time. This Court is of the view that a balance must be struck between the rights and liberty of the accused and the fairness of the trial. Therefore, this case will have to be fast tracked. The Forensic Lab, Chennai, will have to give top priority to this case. This Court, therefore, directs the Forensic Lab, Chennai to respond to the requests submitted by the investigation and make available all the reports sought for within a period of 30 days from date of receipt of a copy of this order.

12.Mr.K.K.Ramakrishnan, Additional Public Prosecutor, would submit that the police intend to file preliminary charge sheet. This shall be done on or before 16.07.2018. Supplementary charge sheet shall be filed on or before 10.09.2018. All the accused are very much in jail. Therefore, there cannot be any difficulty in concluding the committal proceedings within a period of two weeks thereafter. The learned



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Jurisdictional Magistrate shall complete the committal proceedings on or before 24.09.2018. The learned Principal Sessions Judge is directed to assign the case speedily without any delay for trial. The Trial Court to which the case is assigned shall complete the entire trial within a period of six months thereafter. It is reiterated that the observations made in this order are only for the purpose of giving disposal to this petition and that the Trial Court shall conclude the proceedings entirely uninfluenced by any of the observations or directions made in this order."

11.As directed by this Court, the respondent filed preliminary and supplementary charge sheets. As submitted by the learned Additional Advocate General, the accused were furnished copy of the charge sheets and the matter is posted for framing of charges on 04.10.2018. Further, this Court already directed the trial Court to complete the entire trial, within a period of six months from the date of completion of committal proceedings, which was directed to be completed on or before 24.09.2018. Further, it seems that the petitioners/accused 1 and 2 have misused their official position to lure the young college girls students unmindful of their responsibility as professors of a college institution and indulged in such grave crime for their personal benefits. Further, there are prima facie evidence to substantiate that the accused have committed this grave crime and if they are released, there is likelihood of endanger to the life of the victims, who happen to be the poor students and pursuing their further education.

12.Therefore, this Court is not inclined to grant bail to the petitioners. Accordingly, these criminal original petitions are dismissed. In furtherance of the directions issued by this Court in CrI.O.P.(MD) No.11303 of 2018, the trial Court is directed to conduct the trial on day to basis and complete the trial as directed by this Court in CrI.O.P.(MD) No.11303 of 2018 by order dated 12.07.2018.

sd/-
03/10/2018

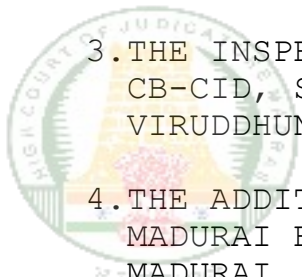
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Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

1.THE PRINCIPAL DISTRICT AND SESSIONS JUDGE,
VIRUDDHUNAGAR AT SRIVILIPUTHUR.

2.THE DEPUTY SUPERINTENDENT OF POLICE,
CB-CID, SPECIAL UNITS,
VIRUDHUNAGAR.



3. THE INSPECTOR OF POLICE,
CB-CID, SPECIAL UNIT,
VIRUDDHUNAGAR DISTRICT.

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

5. THE OFFICER INCHARGE,
SPECIAL PRISON FOR WOMEN,
MADURAI.

+1. CC to M/S.T.LAJAPATHI ROY Advocate SR.No.18896.

ORDER

IN

CRL OP(MD) No.14864 & 14897 of 2018

Date :03/10/2018

RAM/JC/SAR 1/05.10.2018/8P/7C