

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.05.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.7556 of 2020

Sarath Kumar

... Petitioner

Vs.

State rep.by
Inspector of Police,
W-20, All Women Police Station,
Saidapet, Chennai.
Crime No.94 of 2020

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., praying, to enlarge the petitioner on Bail pending investigation in connection with Crime No.94 of 2020 on the file of the respondent police.

For Petitioner : Mr.A.Vel Murugan

For Respondent : Mr.S.Karthikeyan,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 18.03.2020 for the offences punishable under Sections 363, 406 of IPC & 5(1) r/w 6 of POCSO Act, in Crime No.94 of 2020 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner would submit that the petitioner kidnapped the minor victim girl on 28.02.2020, tied Thali on her and forcibly committed penetrative sexual assault on her. The accused was arrested and remanded to judicial custody on 18.03.2020 and thereby, the petitioner committed the offence alleged. The petitioner and the victim girl had love affair with each other and they married with consent. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the family members of the victim girl with an intention to harass the petitioner, has given this false complaint against the petitioner. He would further submit that the earlier two bail petitions filed in CrI.M.P.Nos.390 and 411 of 2020 were dismissed by the lower Court and he is in prison for the past 64 days. Therefore, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the kidnapped the minor victim girl on 28.02.2020, tied Thali on her and forcibly committed penetrative sexual assault on her. He would further submit that the statement of 164 Cr.P.C has been recorded before the concerned Magistrate and

the medical examination of the accused has been completed. He would further submit that the victim is a minor girl aged about 16 years, the petitioner taking advantage of her age and the petitioner forcibly committed penetrative sexual assault on her. Hence, he vehemently opposed to grant bail to the petitioner.

5. Taking into consideration the facts of the case and the submissions made by the learned counsel and also taking note of the fact that the statement of 164 Cr.P.C has been recorded before the concerned Magistrate and the investigation has been completed and also the petitioner is in judicial custody from 18.03.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall execute his own bond for a sum of Rs.10,000/- (Rupees Ten thousand only) each, before the Superintendent of the concerned prison in which the petitioner has been confined on his release;

(b) the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten thousand only) each, before the concerned Magistrate on or before 01.07.2020, 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 learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(d) the petitioner shall not commit any offences of similar nature;

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

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

(g) the petitioner shall report before the respondent Police as and when required for interrogation.

(g) 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]***.

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

6. With the above directions, this Criminal Original Petition is ordered.

22.05.2020

Internet : Yes / No
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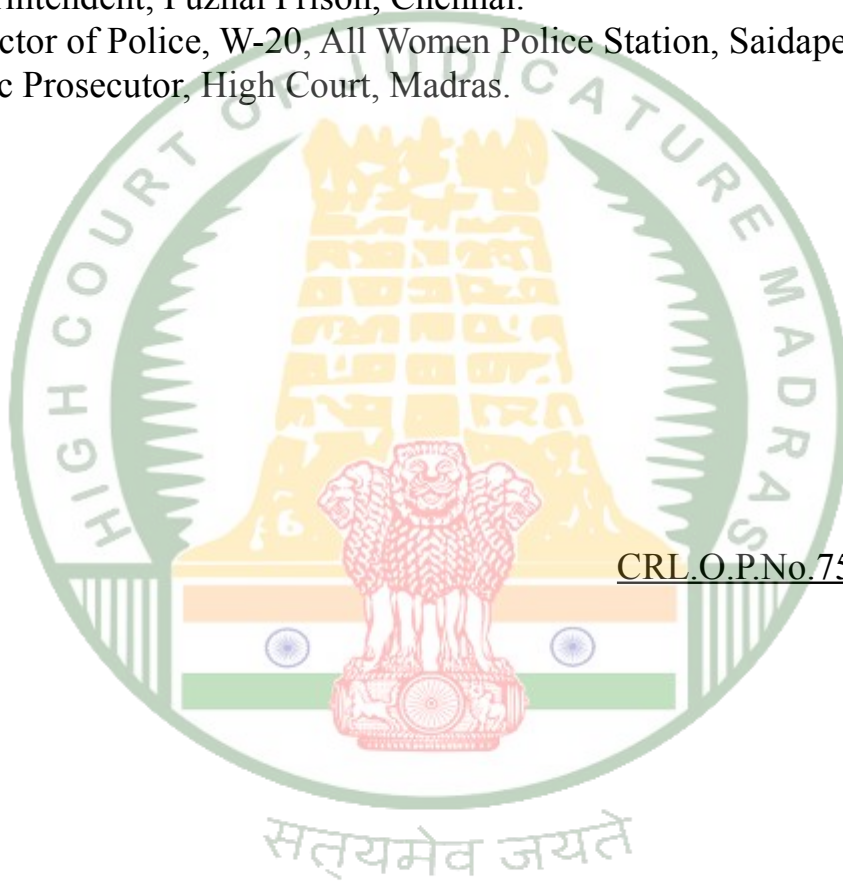
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M.NIRMAL KUMAR,J.
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To

1. The Special Court for Exclusive Trial of Cases under POCSO Act, Chennai
2. The Superintendent, Puzhal Prison, Chennai.
3. The Inspector of Police, W-20, All Women Police Station, Saidapet, Chennai.
4. The Public Prosecutor, High Court, Madras.



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