

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.06.2020

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

Crl.O.P.No.8153 of 2020

Sudhakar,
S/o.Ganesamoorthy,
No.8, Therku Thamarai Kulam,
Thirunallar, Karaikal. Petitioner

Vs.

The State by Station House Officer,
Thirunallaru Police Station,
Karaikal. Respondent
(Crime No.104 of 1996)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to release the petitioner on bail arrested on 27.02.2020 in S.C.No.53 of 1998 pending on the file of Sessions Judge, Karaikal.

For Petitioner : Mr.R.Murugabarathi

For Respondent : Mr.B.Bharatha Chakravarthy

Public Prosecutor (Pondicherry)

ORDER

The petitioner was arrested and remanded on judicial custody on 27.02.2020 for the offence punishable under Sections 366 and 376 of IPC in S.C.No.53 of 1998 on the file of the Sessions Judge, Karaikal, seeks bail.

2. The case of the prosecution is that on 02.11.1996 at 20.00 hours, the defacto complainant lodged a complaint against the accused stating that the accused Sudhagar had kidnapped her daughter namely Girija and rapped her, to that effect, the respondent registered a case in Crime No.104 of 1996 for the offence punishable under Sections 363 and 376 IPC, during investigation crime details form and rough sketch were prepared and accused was arrested on 02.11.1996, remanded into judicial custody. After completion of investigation, final report was filed on 20.07.1998 and on commutation the same has been numbered as S.C.No.53 of 1998 before Sessions Court, Karaikal and trial proceedings were conducted. In the mean time, the accused got bail before the Sessions Court, Karaikal and released on bail. During trial period the said accused had not appeared before the Court and absconded. Therefore, the Court below issued a non bailable warrant against him and he was arrested on 27.02.2020 in execution of the non bailable warrant.

3. The learned counsel appearing for the petitioner would submit that the petitioner regularly appeared before the Court during trial proceedings and he was of the view that the trial got completed. Due to family problem, the petitioner went to North India and returned to Thirunallar a week ago and approached the respondent. He would further submit that the petitioner is the sole bread winner of the family and that he afraid of the Covid-19 pandemic as

there is no possibility to maintain social distancing in prison, prayed for enlargement of the petitioner on bail.

4. The learned Additional Public Prosecutor (Crl. Side) would submit that the case is pending trial before the Court below for the past 22 years and its a case of kidnapping and rape of minor girl aged about 14 years forcibly with sexual intention. The accused has absconded for many years, on reliable information, the Police went to Adoor, Pathananthitta District, Kerala and secured the accused on 26.02.2020 at 17 hours and he was produced on 27.02.2020 at 03.30 hours before the Court below. He would further submit that the trial is at the stage of 313 Cr.P.C questioning, if the accused is released on bail, he will definitely abscond and it will be very difficult to secure him again and thereby he strongly objected to enlarge the petitioner on bail.

5. Considering the submission made by the learned Additional Public Prosecutor that the accused has been secured after 22 years with great difficulty and since the case is pending for the past 22 years at the stage of 313 Cr.P.C questioning this Court is not inclined to grant bail.

M.NIRMAL KUMAR, J.

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6. With the above observation, this Criminal Original Petition is dismissed.

08.06.2020

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order

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To

1. The learned Judicial Magistrate No-II, Karaikal.

2. The State by Station House Officer,
Thirunallaru Police Station,
Karaikal.

3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent,
Central Jail, Pondicherry.

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