

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M. NIRMAL KUMAR

CRL.O.P.No. 8154 of 2020

Velmurugan

... Petitioner

Vs.

The state rep.by
The Inspector of Police,
Kottur Police Station,
Pollachi
Coimbatore District.
Crime No.11/2020

... Respondent

Prayer : Criminal Original Petition filed under Section 439 Cr.P.C.,
to enlarge the petitioner on bail in connection with Crime No.11/2020
on the file of the respondent police.

For Petitioner : Mr.S.Dinesh Kumar

For Respondent : Mr.C. Iyyappa Raj
Additional Public Prosecutor

O R D E R

The Petitioner, who was arrested and remanded to judicial custody on 18.03.2020 for the offences punishable under Sections "Girl Missing" @ 366 of IPC, Section 9 of the Prohibition of Child Marriage Act and Section 5(1) r/w Section 6 of Protection of Children from Sexual Offences Act, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the mother of the minor girl had given a complaint that her daughter was found missing from her house and a "Girl Missing" complaint was registered. After enquiry, it came to know that the minor girl was abducted and taken away by the petitioner herein. Thereafter, he had married the victim and sexually assaulted her. The petitioner was arrested and the minor girl was rescued. Thereafter, the offence was altered under Sections 366 of IPC, Section 9 of the Prohibition of Child Marriage Act and Section 5(1) r/w Section 6 of Protection of Children from Sexual Offences Act. Hence the complaint was registered.

3. The learned counsel appearing for the petitioner would submit that while the petitioner and the victim were working in a Coir Industry, they had developed love affair between them. The parents of the victim girl had not approved the same and they were making arrangement for her marriage to an elderly person and she was kept in house arrest. Thereafter, the victim had escaped from her house and came to the petitioner and forced him to take away and marry her. Though the petitioner was little apprehensive at that time, the victim had stated that if she is not taken, she would commit suicide. The petitioner had no other option and accompanied the victim. Thereafter, they had married in a temple and had physical relationship. On the complaint of the victim's mother, the petitioner was arrested and the victim was secured. Even now, the victim is kept under house arrest. The petitioner due to love and compulsion of the victim had accompanied her, otherwise she would commit suicide. Now, the petitioner is victim of circumstances. Hence, he seeks bail for the petitioner.

4. The learned Additional Public Prosecutor would submit that the victim is a minor girl aged about 17 years and few months. There was love affair between the victim and the petitioner while they were working in the Coir Industry. The victim's mother had lodged a complaint stating that the minor girl was missing. Initially, the "Girl Missing" complaint was registered. After the petitioner was arrested and the victim was secured, the offence was altered. On enquiry it is came to know that the victim voluntarily left her house and on compulsion, petitioner took her away. Thereafter, they married and had physical relationship between them. The statement of 164 Cr.P.C., has already been recorded in this case. Hence, he opposed for grant of bail to the Petitioner.

5. It is seen that the victim girl is few months short of attaining majority. The victim and the petitioner loved each other and due to difference in the social standings, the love and marriage has been objected by the victim's parents. The victim escaped from her house and gone to the petitioner and thereafter they married and also had physical relationship. Considering the fact that the victim is a minor girl had love affair with the petitioner, left her home out of infatuation, this Court is inclined to grant bail to the petitioner, subject to the following 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 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 within a period of 15 days from the date of lifting of lock down and commencement of regular functioning of Court below, failing which the bail granted by this Court shall stand dismissed automatically;

(c) The sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Magistrate may obtain copy of their Aadhar Cards or Bank Pass Books to ensure their identity;

(d) The petitioner is directed to appear before the trial court on all hearing dates either in person or through his counsel and in any case, he should not be the reason for stalling of the trial;

(e) The petitioner shall not commit any offences of similar nature;

(f) The petitioner shall not abscond either during investigation or trial;

(g) The petitioner shall not tamper with evidence or witness 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);

(i) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A I.P.C.,

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

-sd/-

18/06/2020

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 EXCLUSIVELY
FOR POCSO, COIMBATORE DISTRICT.

2 THE OFFICER INCHARGE
DISTRICT JAIL, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

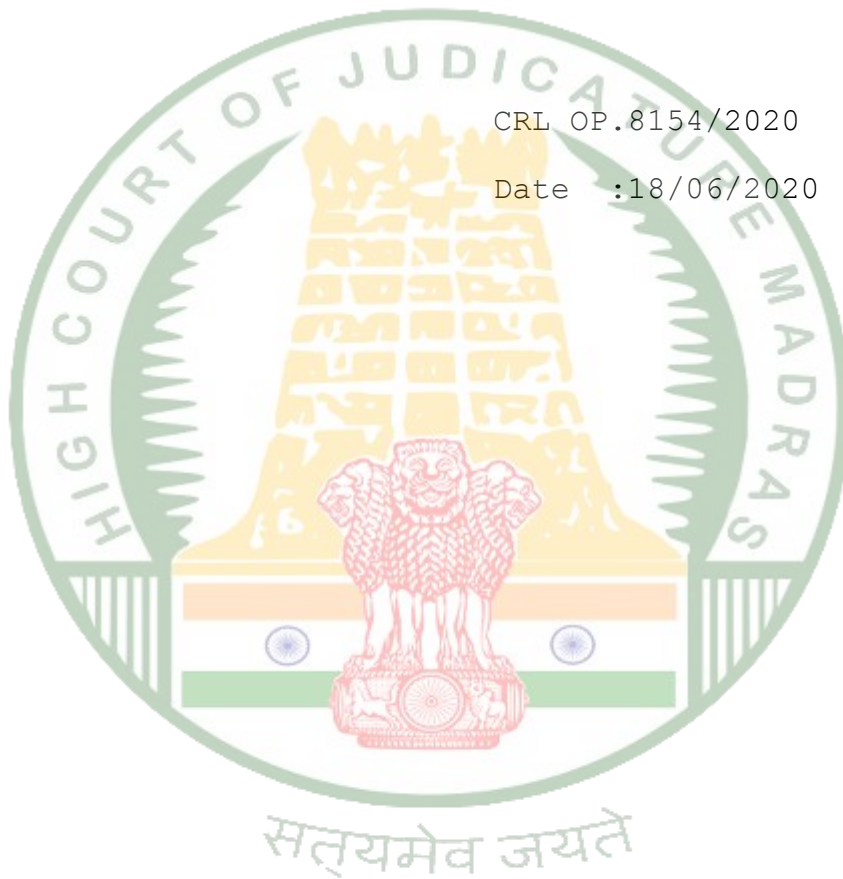
4 THE INSPECTOR OF POLICE,
KOTTUR POLICE STATION,
POLLACHI,
COIMBATORE DISTRICT.

CC to M/S. S.DINESHKUMAR Advocate on payment of necessary
charges

CRL OP.8154/2020

Date :18/06/2020

cs 09/11/2020



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