

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.06.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8496 of 2020

M.Vinoth Kumar S/o. Mani ... Petitioner

Vs.

The Inspector of Police,
Acharappakkam Police Station,
Chengalpattu District.
(Cr.No. 550/2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on Bail pending investigation in Crime No. 550 of 2020 on the file of the respondent police.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.S.Karthikeyan

Additional Public Prosecutor

सतयमेव जयते
ORDER

The petitioner, who was arrested and remanded to judicial custody on 29.04.2020 for the offence punishable under Sections 366(A) IPC r/w. Sections 6 & 17 of Protection of Children from Sexual Offences Act 2012,

in Crime No. 550 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is the mother of the victim girl and that the victim girl who is a minor was kidnapped by the petitioner with the help of the other accused and thereafter he committed penetrative sexual assault on the victim girl. Hence the complaint.

3. The learned counsel for the petitioner would submit that the petitioner was working in a private limited company, the petitioner and the victim are from the same village. The petitioner and the victim were in love affair with each other and the parents of the victim did not approve the same and they were making arrangements for the marriage of the victim girl with an elderly person. Offended for the same, the victim girl had forced the petitioner to take her away and marry her failing which, she would commit suicide. Having no other option, the petitioner had to join with the victim girl and thereafter they got married and they were living together for a few days. Thereafter, the victim girl was secured and the petitioner was arrested.

He further submitted that it is purely a love affair and on the compulsion of the victim, the petitioner had to take her away. The petitioner in such situation, was compelled to act so. The victim girl a school drop out, the petitioner found no reason to refuse the marriage, without knowing the consequences, the petitioner had to accompany the victim girl.

4.The learned Additional Public Prosecutor would submit that the victim girl is a minor, aged about 17 years. The petitioner had forcibly kidnapped her with the help of his friends and thereafter under the guise of marriage, he had physical relationship with the minor girl on several occasions. The parents of the victim had initially given a complaint for girl missing and thereafter the victim as well as the accused were secured. The victim during examination, had clearly stated that she was forcibly taken by the petitioner. Hence, he opposed for the grant of bail to the petitioner.

5. Considering the rival submissions and the materials and also taking into consideration the age of the petitioner and the fact that there was a love affair between the petitioner and the victim girl and that the occurrence has

taken place without knowing the consequences due to adolescent age, further the co-accused have been granted bail, this Court is inclined to grant bail, subject to the following conditions:

(a) the petitioner shall execute 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 lockdown 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 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 report before the respondent police as and when required for interrogation;

(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 IPC.

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

11.06.2020

Mpa

To

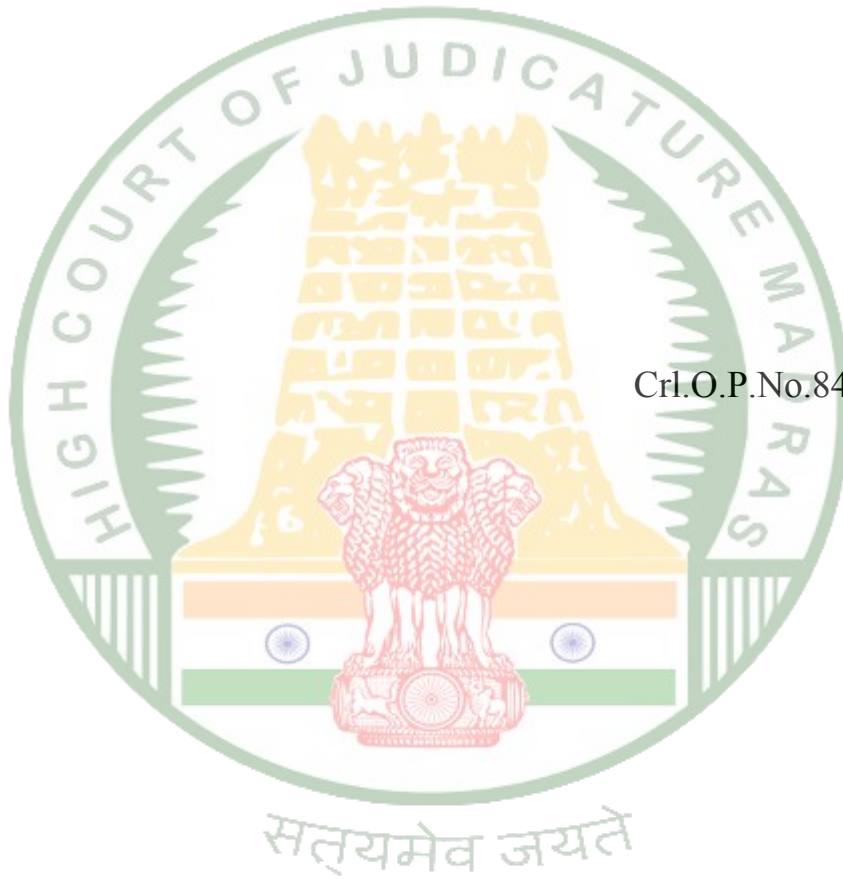
1. The learned Judicial Magistrate, Madhuranthakam.
2. The Inspector of Police,
Acharappakkam Police Station,
Chengalpattu District.
3. The Public Prosecutor,
High Court of Madras, Chennai-104.
4. The Superintendent,
Central Prison, Puzhal.

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M.NIRMAL KUMAR., J.

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