

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.06.2020

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.8692 of 2020

Gokul

... Petitioner

/Vs/

State rep by
Inspector of Police,
All Women Police Station,
Sooramangalam.
(Crime No.13 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under section 439 of Cr.P.C., to enlarge the Petitioner on Bail, concerned in Crime No.13 of 2020, on the file of the Respondent Police.

For Petitioner : Mr.S.Parthasarathy

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

* * * * *

ORDER

The petitioner was arrested and remanded to judicial custody on 10.05.2020 for the offence punishable under Section 366 of IPC and Section 5(i) read with Section 6 of POCSO Act and Section 9 of Child Marriage Restraint Act, in Crime No.13 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant one Mathesan, father of the victim girl had lodged a complaint on 08.05.2020 and stated that her daughter date of birth is 24.04.2003 and has completed her +2 school studies. On 08.05.2020 at about 10.30 a.m., the victim girl was found missing. The defacto complainant suspected that the accused being the reason for missing of his girl. Since, he was always making approaches to his girl. Hence the complaint.

3. The learned counsel for the petitioner submits that the petitioner is a BBA 2nd year student studying in Vivekananda College of Arts & Science, Salem. The victim girl is 17 years 6 months old. For the past 4 years, the victim girl and the petitioner wherein love affair with each

other which was not to the liking of the defacto complainant and the victim girl was forced to stay at home and she was not even allowed to continue her studies and her movements were restricted. The defacto complainant was making arrangements for the marriage of the victim girl with an elderly person. The victim girl fearing such marriage and forced the petitioner to take away her otherwise she would commit suicide. The petitioner having no other alternative was forced to accompany the victim girl and both have eloped and thereafter he tied the thali in a temple and had marriage between them and in furtherance they had physical relationship. On 10.05.2020, the victim girl was secured, the accused was arrested.

4. The learned Additional Public Prosecutor submits that the defacto complainant lodged a complaint on 08.05.2020, stating that his daughter was missing. Thereafter, his daughter secured from the company of the petitioner. On 10.05.2020, the accused was arrested and the victim girl was secured along with her parents. During investigation, it is found that the victim girl and the petitioner were in love with each other for the past 4 years and on 08.05.2020, the victim girl called the

petitioner and they both eloped together and thereafter they had a marriage. The victim girl had also given a 164 statement, wherein, she had clearly mentioned that she had a love affair with him and the petitioner had tied thali and he had gone with the victim girl voluntarily.

5. Considering the same and also the age of the petitioner as well as the victim girl and the victim girl is short of few months for attaining majority due to the infatuation and in view of their love affair. To escape from compelling situation they had eloped and they were together for two days. The victim girl had confirmed her relationship with the petitioner in 164 Cr.P.C statement. In view of the same, the petitioner is granted bail.

6. Taking into consideration the nature of allegations against the petitioner in the FIR and also taking note of the fact that the petitioner was in judicial custody from 10.05.2020, 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) before the Superintendent of

the concerned prison, in which the petitioner has been confined on their 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

Judicial 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.

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

17.06.2020

Index: Yes/No

Internet: Yes/No

Speaking order/Non-speaking order
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To

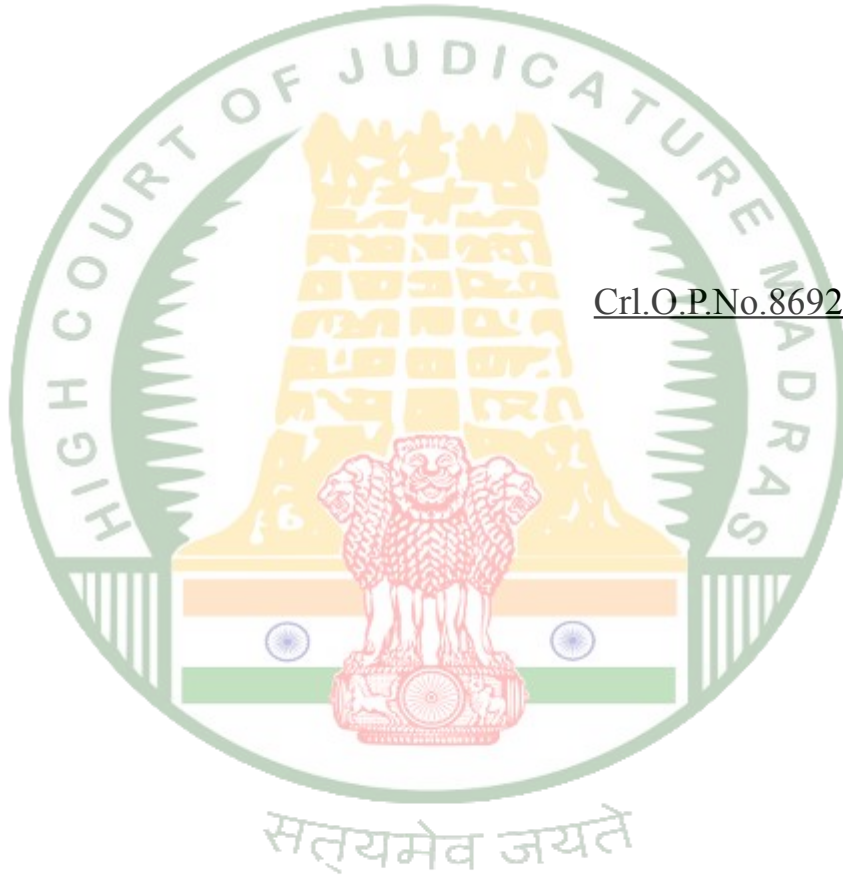
1. The Sessions Judge,
Special Court for Exclusive trial of Cases
under POCSO Act, Salem.
2. The Superintendent,
Central Prison,
Salem.
3. Inspector of Police,
All Women Police Station,
Sooramangalam.
4. The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR,J.
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