

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 28.07.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA
Crl.O.P.No. 11218 of 2020

V.Premkumar ... Petitioner/Accused
Vs.

The State represented by,
The Inspector of Police,
Royapuram Police Station,
Chennai. ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 808 of 2020, pending investigation on the file of the respondent police.

For Petitioner : Mr.A.E.Ravichandran

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 25.05.2020 for the offence punishable under Section 6 of the POCSO Act, in Crime No. 808 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant is that on 25.05.2020, at about 14.00 hours, his minor daughter had gone to nearby shop and she did not return and later was found missing. On receiving information, the defacto complainant searched the nearby locality and thereafter, a complaint has been given before the respondent police and the same was registered in Crime No. 808 of 2020 for "Girl Missing". During investigation it came to light that the minor girl was kidnapped by the petitioner and he had committed penetrative sexual assault and the case was altered to under Section 6 of the POSCO Act.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the defacto complainant has arranged the marriage to his first daughter with the petitioner and due to differences brewed between the two families, the defacto complainant rescinded the proposal for marriage and thereafter, daughter of the defacto complainant had come out of her house on 25.05.2020 to marry the petitioner. He further submitted that believing the daughter of the defacto complainant has attained the age of majority, the petitioner got married to her on 25.06.2020. He would further submit that the respondent police has altered the report on 26.05.2020 to one under Section 6 of POCSO Act. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner and the minor victim girl are close relative. The petitioner had induced the minor on the promise of marriage and committed penetrative sexual assault on the girl. He would further submit the statement under Section 164 Cr.P.C has been recorded from the victim girl and the medical examination of the victim girl and the petitioner has been over.

5. Taking into consideration of the facts and submissions made by the learned counsel and also considering the fact that the petitioner is in jail from 25.05.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:-

(a) Accordingly, 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 and thereafter on his release;

(b) the petitioner shall execute two sureties, each for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned XVI Metropolitan Magistrate, George Town, Chennai, within 15 days from the date of lifting of the lock down or the commencement of the Court's normal functioning or which ever is earlier, 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 respondent police daily at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

(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.

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

-sd/-
28/07/2020

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 METROPOLITAN MAGISTRATE NO.XVI,
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

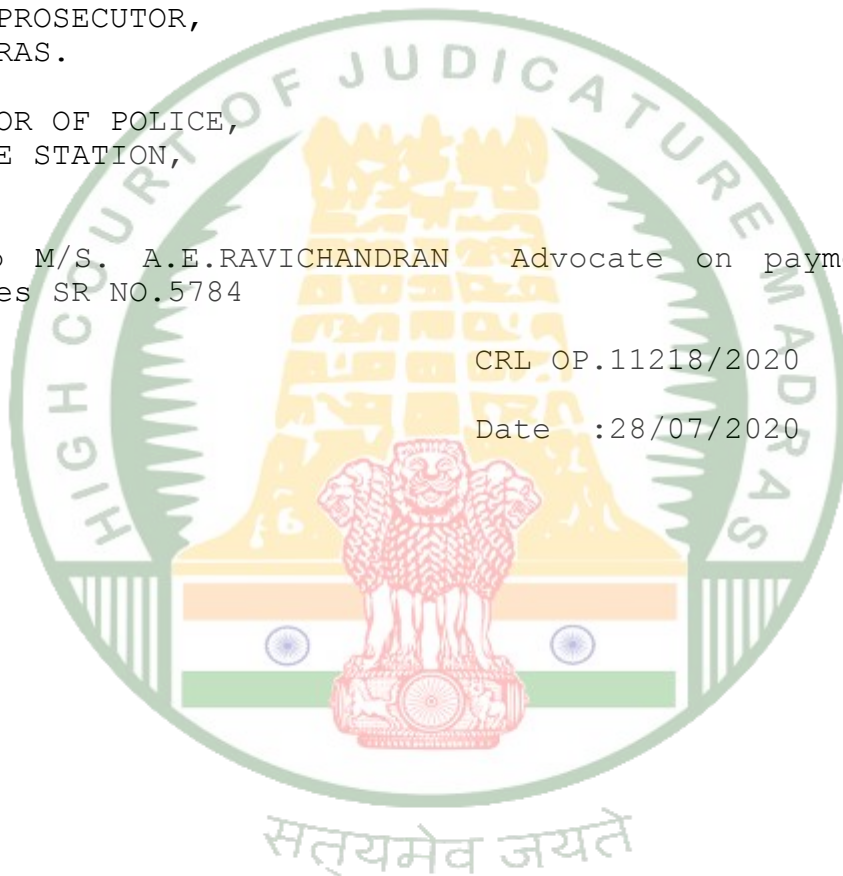
5 THE INSPECTOR OF POLICE,
ROYAPURAM POLICE STATION,
CHENNAI.

+1CC to M/S. A.E.RAVICHANDRAN Advocate on payment of
necessary charges SR NO.5784

CRL OP.11218/2020

Date :28/07/2020

MK:30/07/2020



WEB COPY