

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 18.08.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No. 12449 of 2020

Chandru

... Petitioner

Vs.

The State represented by,

The Inspector of Police,
W-13, Tondiarpet All Women Police Station,
Chennai.

(Crime No.11 of 2020) ... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge him on bail pending investigation of the case in the Crime No. 11 of 2020 on the file of the Respondent Police, (W-13, Tondiarpet All Women Police Station).

For Petitioner : Mr.M.Illiyas

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (CrI. 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 18.07.2020 for the offences punishable under Section 6 of POCSO Act in Crime No.11 of 2020 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant one Sriranjini, is that the petitioner committed penetrative sexual assault on her minor daughter due to which she became pregnant. On coming to know of the pregnancy, she had taken her to hospital and terminated the pregnancy. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner and the daughter of the defacto complainant were residents of the same locality and there was love affair between them and that without understanding the consequences they have indulged in consensual affair and due to which the victim girl became pregnant. He would submit that the petitioner was arrested on 18.07.2020 and that the parents of the

victim have terminated the pregnancy and the necessary steps have been taken for DNA Test. The learned counsel would further submit that the petitioner is not disputing the paternity and the parents of the victim and the parents of the petitioners have agreed to conduct the marriage after the victim attains majority. He would further submit that a statement under section 164 Cr.P.C has been recorded from the victim girl wherein she had stated that there was love affair between the petitioner and herself and due to which she became pregnant. He would further submit that the petitioner is in custody from 18.07.2020 and he is also prepared to co-operate with the respondent for further investigation.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner committed penetrative sexual assault on the minor daughter of the defacto complainant, due to which, she became pregnant and coming to know the pregnancy, the defacto complainant has taken her to RSRM Government Hospital and conducted abortion. He would submit that a statement under section 164 Cr.P.C has been recorded wherein the girl stated that there was love affair between the petitioner and herself and the medical examination in respect of victim girl has been completed. He would also submit that medical examination in respect of the petitioner remains to be done.

5. At this Juncture, the learned counsel for the petitioner would submit that the petitioner is prepared to appear before the respondent and co-operate for any kind of medical examination.

6 Taking into consideration the facts of the case and submission made by the learned counsel, 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 for a sum of Rs.10,000/- (Rupees Ten Thousand only) each, before the learned SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT AT CHENNAI, City Civil Court Building Chennai, within 15 days from the date of lifting of the lock down and the commencement of the Court's normal functioning, 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 everyday at 10.30 a.m. until further orders.

the petitioner shall co-operate with the respondent for conducting medical examination to him.

(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.

-sd/-

18/08/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

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सत्यमेव जयते
Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT AT
CHENNAI, CITY CIVIL COURT BUILDING CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

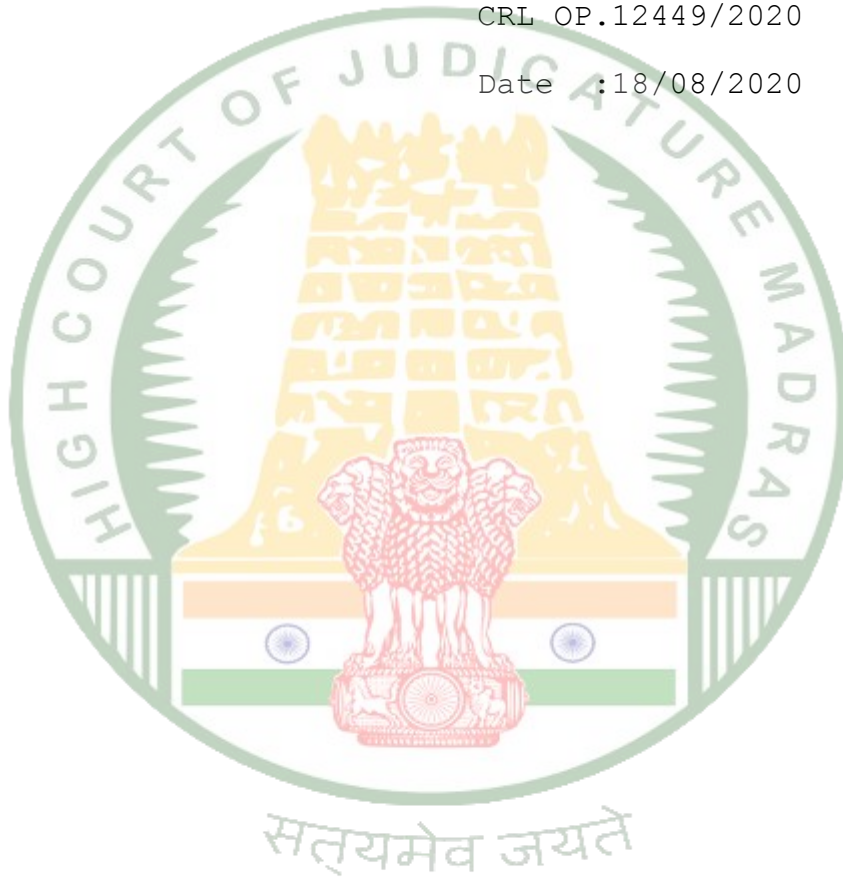
4 THE INSPECTOR OF POLICE,
W-13, TONDIARPET ALL WOMEN POLICE STATION,
CHENNAI.

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

CRL OP.12449/2020

Date :18/08/2020

MK:03/09/2020



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