

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.12802 of 2020

Charles Singh

... Petitioner/ Sole Accused

Vs.

The State Represented by,
The Inspector of Police,
Perur All Women Police Station,
Coimbatore District 641 016.
(Crime No. 7 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C.,
to enlarge the petitioner on bail in connection with the Crime No.7
of 2020, on the file of the respondent police pending investigation.

For Petitioner : Mr.G.Anbauchezheiyar

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Cr1.Side)

ORDER

(This case has been heard through video conference)

The petitioner, who was arrested and remanded to the Judicial Custody on 21.06.2020, for the offences punishable under Sections 5(i), 5(n), 6 of POCSO Act, in Crime No.7 of 2020, on the file of the respondent police seeks bail.

2 The case of the prosecution as per the defacto complainant/victim girl is that she is aged 17 years and 7 months and that she has studied in the home run by the accused till 8th standard thereafter the accused had closed the home and all the students have gone away. Since, the defacto complainant was not having parents, the petitioner had permitted the defacto complainant to stay in his house along with his wife and one girl viz., Jothi. While so, on 16.06.2020, when she was sleeping, the petitioner had misbehaved with her and thereafter, she had left the home and given a complaint to the Village Administrative Officer and through him, she was taken to the learned Juvenile Judge, where she had given a statement.

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 petitioner was running a home in the name of New Life Home For Children, at Coimbatore, after obtaining necessary permissions. Later, due to his financial status, the petitioner was not able to run the home properly and thereafter, by proceedings in Na.Ka.No.21/DCPO/2013, dated 14.06.2014, by the District Collector, Coimbatore, the home had been closed and some of the children were sent back to their parents and others were sent to some other home. Since, the parents of the defacto complainant were not available, the wife of the petitioner has taken the defacto complainant to their home and they were taking care of her. After she had grown up, the defacto complainant wanted to leave the house and since, the petitioner's wife did not allow her to leave their home, the defacto complainant has come out with a false complainant. Even as per the FIR, she had referred two incidents one is on 16.06.2020 and another is on 17.06.2020 and she had stated that one Jothi was sleeping close to her and the wife of the petitioner was also available in the house. He would submit that the petitioner along with his wife has been taking care of the defacto complainant from the year 2014. He would submit that the petitioner is inside for more than 80 days. 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 was earlier running a home in the name of New Life Home For Children at Coimbatore and it was closed due to lack of facilities and thereafter, since the defacto complainant/victim did not have her parents to support, she was under his custody from 2014 and that he had misbehaved with the victim girl on 16.06.2020 and on 17.06.2020 and the complainant was given on 18.06.2020. He would further submit that the Statement under Section 164 has been recorded from the victim girl. Hence, he opposed to grant bail to the petitioner.

5 Heard both sides and perused the FIR and also Statement recorded under Section 164 Cr.P.C.

6 Taking into consideration of the facts and submissions made by the learned counsel of this case and also considering the fact that the petitioner is in jail from 21.06.2020, 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 Special Court for Exclusive Trial of cases under POCSO Act, Coimbatore, within 15 days from the date of 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.

(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/-

09/09/2020

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 FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

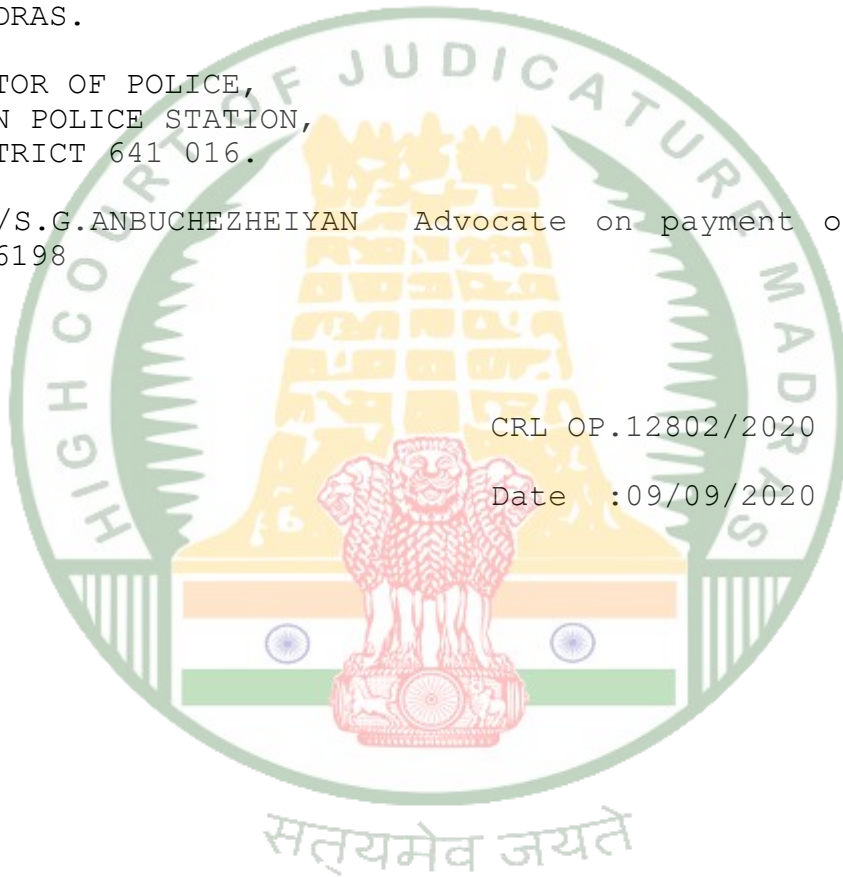
4 THE INSPECTOR OF POLICE,
PERUR ALL WOMEN POLICE STATION,
COIMBATORE DISTRICT 641 016.

+1 CC to M/S.G.ANBUCHEZHAIYAN Advocate on payment of necessary
charges SR.No.6198

cs 11/09/2020

CRL OP.12802/2020

Date :09/09/2020



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