

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2020

CORAM :

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P.No.13366 of 2020

R.Ajaykumar

... Petitioner

Vs.

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

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner/accused on bail in Crime No.13 of 2020 on the file of the respondent police.

For Petitioners : Mr.V.C.Vinoth Kumar

For Respondent : Ms.S.Thankira
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 30.06.2020 for the offence punishable under **Sections 6 read with Section 5(1) of Protection of Children from Sexual Offences Act and Section 9 of Prohibition of Child Marriage Act, in Crime No.13 of 2020**, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant who is a minor girl is that the petitioner induced her on the false promise of marrying her, tied Thali and committed repeated penetrative sexual assault on her and thereafter refused to marry her. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and a false case has been given on the instigation of the maternal uncle of the defacto complainant. He would further submit that the petitioner is a student, studying in Hindustan Engineering College and there was a love affair between the petitioner and the victim girl and that the relationship between the petitioner and the defacto complainant was consensual. However, for reasons best known, a

false complaint has been given. He would further submit that the petitioner has also sworn an affidavit before the prison authorities undertaking to marry the victim girl once she attains majority and marriageable age. Further, the mother of the petitioner has also sworn an affidavit agreeing to arrange the marriage between the petitioner and the defacto complainant. He would further submit that the investigation is completed and the final report has been filed and that the petitioner has been suffering incarceration from 30.06.2020. Hence, he seeks for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner induced the victim who is a motherless child and committed repetitive penetrative sexual assault on her and later refused to marry her. She would further submit that investigation has been completed and the final report has also been filed and the same has been taken on file in S.C.No.24 of 2020 on the file of the Special Court under POCSO Act, Nagapattinam and the case is posted to 05.10.2020 for appearance of the accused.

5.Heard the learned Counsel on either side and perused the statement of the victim girl recorded under 164 Cr.P.C. The affidavits filed by the petitioner as well as the mother of the petitioner have been taken on record.

6.Taking into consideration the affidavits filed by the petitioner as well as the mother of the petitioner and the fact that the investigation has been completed, charge sheet filed and the same has been taken on file in S.C.No.24 of 2020 and also considering the period of incarceration suffered by the petitioner, 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 condition to 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;

(b) Thereafter, the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with two sureties each for a like sum to the satisfaction of the **learned Sessions Judge (Special Court Under POCSO Act), Nagapattinam, within a period of two weeks from the date of 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 on his release from prison, shall report before the respondent police everyday at 10.30 a.m. for a period of one week. Thereafter, the petitioner shall appear before the trial Court viz., the Special Court Under POCSO Act, Nagapattinam, on 05.10.2020 and thereafter on all the dates fixed by the trial Court.

(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.

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

-sd/-
23/09/2020

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 SESSIONS JUDGE
(SPECIAL COURT UNDER POCSO ACT),
NAGAPATTINAM.

2 THE JAILER,
SUB JAIL, NAGAPATTINAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

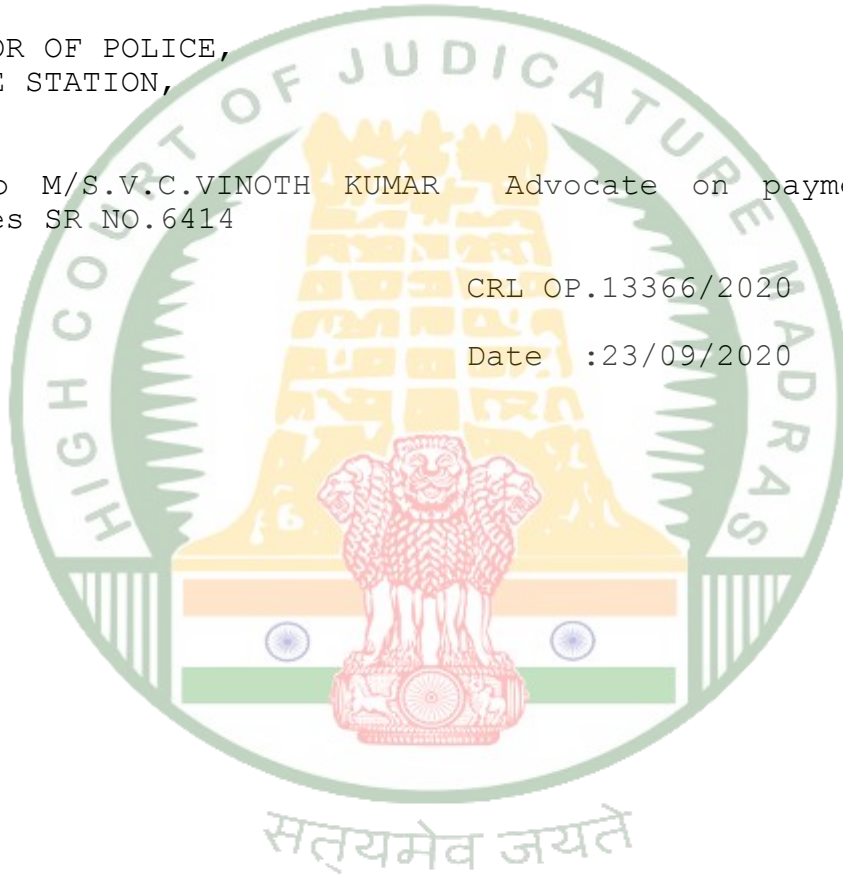
4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
MAYILADUTHURAI.

+1CC to M/S.V.C.VINOTH KUMAR Advocate on payment of
necessary charges SR NO.6414

CRL OP.13366/2020

Date :23/09/2020

MK:24/09/2020



WEB COPY