

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.09.2020

CORAM :

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

Crl.O.P.No.13618 of 2020

D.Udhayakumar

... Petitioner

Vs.

State represented by
the Inspector of Police
Alandurai Police Station
Coimbatore
(Crime No.220 of 2013)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in S.C.No.112 of 2018 on the file of the Magalir Neethimandram (Mahila Court) Coimbatore.

For Petitioner : Mr.J.Franklin

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 04.05.2018 for the offences punishable under Section 376 & 302 IPC, in Crime No.220 of 2013, seeks bail.

2.It is a case of jumped bail. The petitioner is facing trial in S.C.No.112 of 2018 on the file of the Magalir Neethimandram (Mahila Court) Coimbatore for offences punishable under Section 376 & 302 IPC. Since the petitioner did not appear before the Trial Court, the Trial Court issued an NBW on 16.04.2015 and thereafter the petitioner was secured on 14.05.2018 after three years.

3.The learned counsel appearing for the petitioner would submit that the petitioner did not receive any summons from the Court after originally being granted bail. Without there being any summons, the Trial Court had issued a warrant straightaway and the petitioner was arrested on 14.05.2018. He would further submit that out of 27 witnesses, the prosecution has examined only 14 witnesses so far. He would further submit that the petitioner is confined in Central

Prison, Chennai and he is unable to get proper legal assistance to conduct the case properly and he is also unable to recall and cross examine the witnesses, thereby, the petitioner is denied his right of fair trial.

4.Per contra, the learned Government Advocate (Crl. Side) would submit that it is a case of rape and murder and this case was registered during the year 2013. He would further submit that the petitioner was originally released on bail and thereafter the petitioner absconded and since the respondents were unable to serve summons despite several attempts, the Trial Court issued NBW and that he has been arrested on 04.05.2018. He would further submit that out of 27 witnesses, 14 witnesses have been examined and the trial is in progress. He would vehemently opposes for the grant of bail stating that the petitioner is a Srilankan refugee and if bail is granted to him, there is every possibility of him getting absconded and thereby derail the progress of trial.

5.Taking into consideration of the facts and submissions made by the learned counsels, this Court is not inclined to grant bail to the petitioner. However, in order to afford fair trial to the petitioner, the learned Trial Judge is hereby directed to take steps to get the petitioner transferred from Central Prison, Puzhal, Chennai to the nearest prison and the petitioner is directed to file a proper petition for recalling the witnesses. The petitioner may be afforded opportunity to cross examine the witnesses and he may also be provided with proper legal assistance to conduct his case. The learned Trial Judge is also hereby directed to complete the trial at the earliest within a period of six months from the date of lifting of lock down or resumption of normal functioning of Court.

6.With the above directions, this Criminal Original Petition stands closed.

-sd/-

04/09/2020

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 MAGALIR NEETHIMANDRAM
(MAHILA COURT) COIMBATORE.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI.

<https://hcservices.ecourts.gov.in/hcservices/>

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

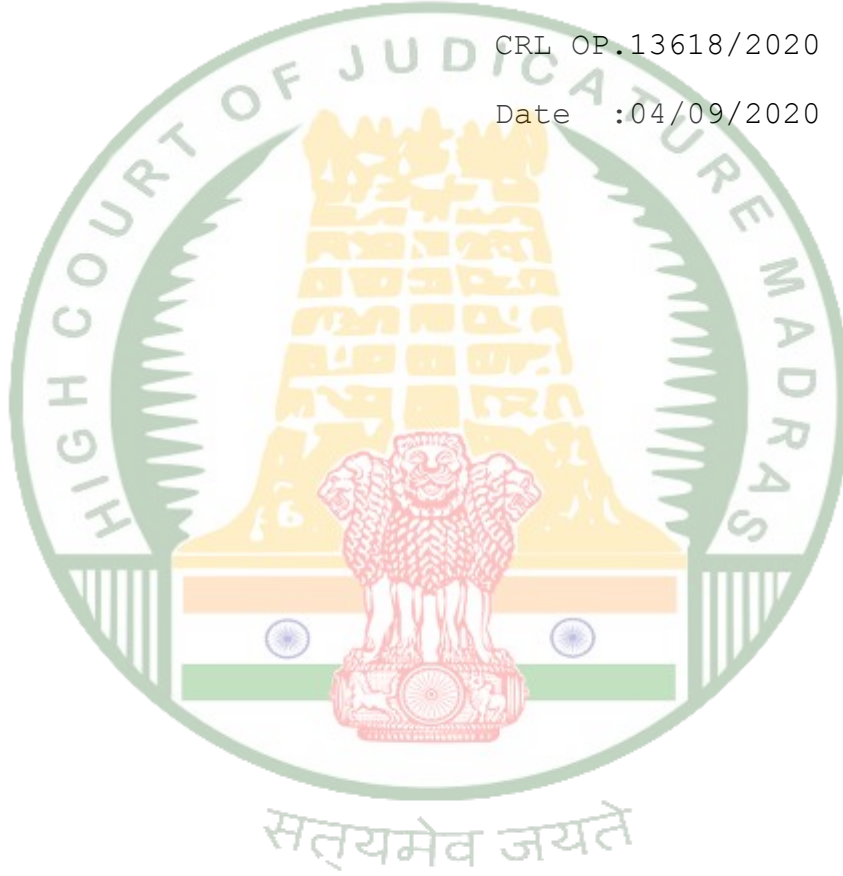
4 THE INSPECTOR OF POLICE,
ALANDURAI POLICE STATION,
COIMBATORE.

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

CRL OP.13618/2020

Date :04/09/2020

cs 14/09/2020



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