

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14102 of 2020

Anbarasan

... Petitioner/Sole Accused

Vs.

The State Represented by,
The Inspector of Police,
Eravanchery Police Station,
Tiruvarur District.

(Crime No. 420 of 2020)

... Respondent /Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail pending investigation in Crime No.420 of 2020, on the file of the respondent police.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl.Side)

ORDER

(This case has been heard through video conference)

The petitioner, who was arrested and remanded to the Judicial Custody on 02.08.2020, for the offences punishable under Sections 366(A) of IPC and Sections 5(1) r/w 6 of POSCO Act, 2012, in Crime No. 420 of 2020, on the file of the respondent police seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Selvam, is that his minor daughter, aged about 17 years was found missing. During the course of investigation, it came to light that the petitioner had kidnapped the victim girl and committed penetrative sexual assault on the victim girl. Hence, the complaint.

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 and the daughter of the defacto complainant were having love affair and that it was objected by the defacto complainant, the defacto complainant and his family members made arrangements to get her married with some one against her choice and thereby, the victim eloped from the house and joined with the petitioner. He would submit that coming to know of registration of the case, the petitioner and the victim have surrendered before the respondent police and the petitioner was arrested. He would further submit that the medical examination in respect of the petitioner as well as the victim has been over and the statement under Section 164 Cr.P.C. has been recorded from the victim, wherein, she had stated that she had gone on her own volition along with the petitioner. Since, the petitioner and the victim belong to the different community, a case has been registered. 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 had kidnapped the minor daughter of the defacto complainant and committed penetrative sexual assault on her. However, he would submit that the statement has been recorded from the victim under Section 164 Cr.P.C., wherein, she has stated that she had gone along with the petitioner on her own volition. He would submit that the investigation is pending and the medical examination in respect of the petitioner as well as the victim has been completed. However, he opposed to grant bail to the petitioner.

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 02.08.2020, 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 Judicial Magistrate, Nannilam, 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 respondent police everyday at 10.30 a.m. for a period of two weeks and thereafter on 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/-
10/09/2020

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

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

TO

1 THE JUDICIAL MAGISTRATE COURT,
NANNILAM, TIRUVARUR

2 THE CHIEF JUDICIAL MAGISTRATE
TIRUVARUR DISTRICT [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, TRICHY

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

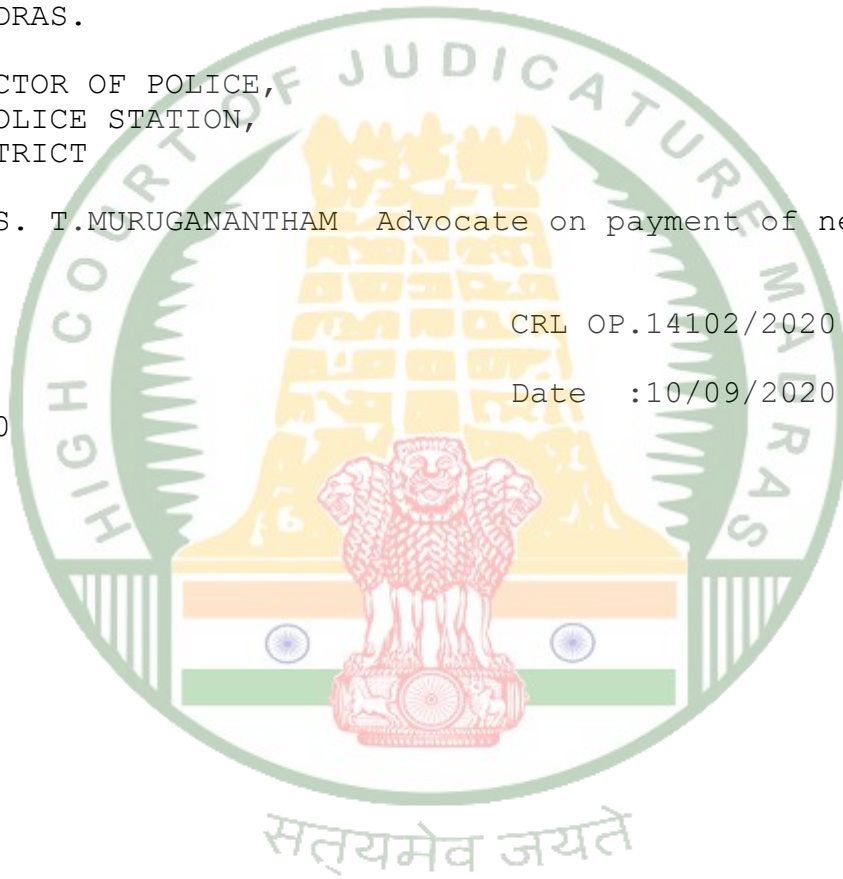
5 THE INSPECTOR OF POLICE,
ERAVANCHERY POLICE STATION,
TIRUVARUR DISTRICT

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

CRL OP.14102/2020

Date :10/09/2020

GKS:15/09/2020



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