

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.14044 of 2020

Ubayathullah

... Petitioner/Single Accused

Vs.

The Inspector of Police,

Punjai Puliyampatti Police Station,

Erode.

(Crime No. 59 of 2020)

... Respondent /Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C., to enlarge the petitioner on bail in Crime No. 59 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Parthasarathy

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 14.02.2020, for the offences punishable under Sections 5(n) r/w 6 and 18 of POCSO Act, 2012, in Crime No. 59 of 2020, on the file of the respondent police seeks bail.

2 The case of the prosecution is that the petitioner had committed sexual assault on his own daughter.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 due to dispute in the Jamath and the complaint was given through his daughter. He would submit that the petitioner was arrested on 14.02.2020 and till date the respondent has not filed the final report before the Court. Apart

from that he would submit that the victim was examined by the Judicial Magistrate No.1, Gobichettypalayam, under Section 164 Cr.P.C and the victim has stated that the petitioner had only caught hold of her hand and that the petitioner was drunk. Further, she had stated that due to dispute in the Jamath, the petitioner was assaulted brutally and there was bleeding from his ear. He would further submit that even the accident register does not disclose any injury on the child both external and internal and that the petitioner has been falsely implicated in this case. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that allegation against the petitioner is that he has committed sexual assault on his own daughter however, he would submit that the petitioner was arrested on 14.02.2020 and the respondent has not filed final report yet and that the petitioner is in custody for more than 90 days.

5 M/s.Nagalakshmi, Inspector of Police, is present before this Court through video conference and she would submit that the final report is made ready, however, it has not been filed before the Court.

6 Heard the learned counsels and perused the statement under Section 164 Cr.P.C recorded from the victim girl and also perused the Accident Register.

7 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 14.02.2020 and the final report is not filed till date, 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 Sessions Court, Magalir Neethi Mandram, Fast Track Mahila Court under POCSO Act, Erode, within 15 days 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 shall report before the respondent police everyday at 10.30 a.m. for a period of one week and thereafter, as and when required for interrogation.

(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/-

10/09/2020

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

TRUE COPY

WEB COPY

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

TO

1 THE SESSIONS COURT,
MAGALIR NEETHI MANDRAM, FAST TRACK MAHILA
COURT UNDER POCSO ACT, ERODE

2 THE SUPERINTENDENT,
CENTRAL JAIL, COIMBATORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

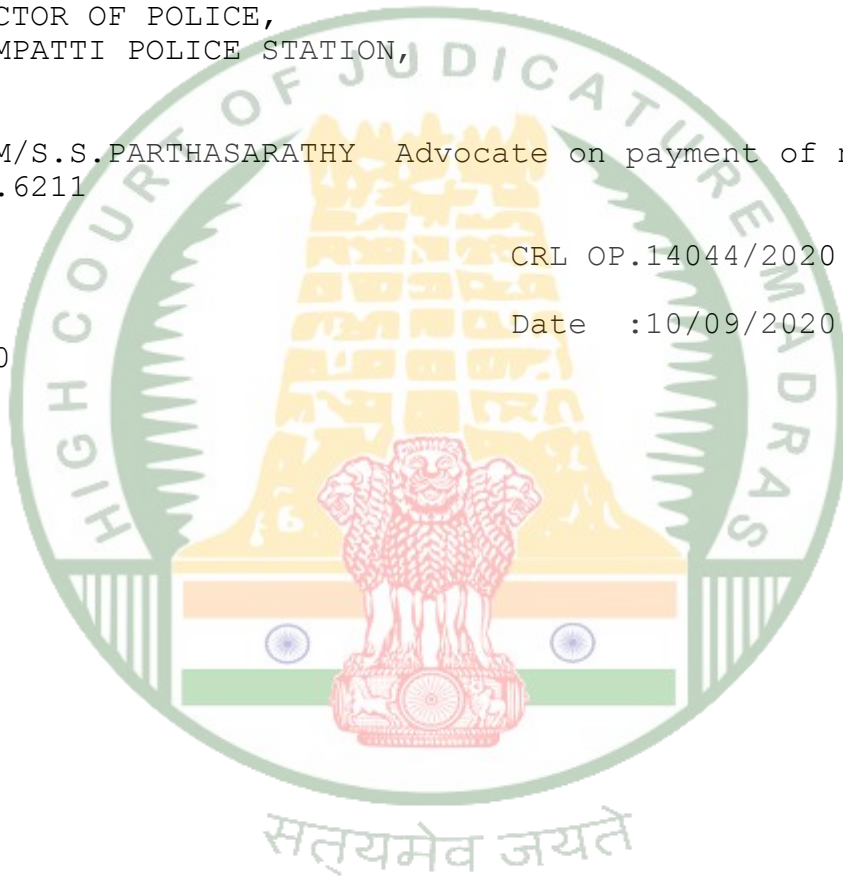
4 THE INSPECTOR OF POLICE,
PUNJAI PULIYAMPATTI POLICE STATION,
ERODE.

+1 CC to M/S.S.PARTHASARATHY Advocate on payment of necessary
charges SR.NO.6211

CRL OP.14044/2020

Date :10/09/2020

GKS:15/09/2020



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