

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 15.09.2020

CORAM :

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

Crl.O.P.No.14199 of 2020

S.Soundar @ Soundariyan ... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Dharmapuri District.
(Crime No.9/2020)

... Respondent/Defacto Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to grant bail to the petitioner in Crime No. 09 of 2020, on the file of the District Crime Branch, Tiruvarur.

For Petitioner : Mr.P.Vijendran

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 22.06.2020 for the offence punishable under Sections 5 (1) read with Section 6 of POCSO Act, 2012 in Crime No. 09 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant is that the petitioner had committed penetrative sexual assault on her on the promise of marriage on 15.06.2020 suppressing the fact that he was already married on 26.03.2020. 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 there was some relationship between the petitioner and the defacto complainant and the defacto complainant mistook it to be love whereas, the petitioner got married to some other girl on 26.03.2020. Therefore, in order to take revenge, a false complaint

has been given as if the petitioner committed sexual assault and the petitioner was arrested on 22.06.2020 and he has been suffering incarceration for almost 85 days. He would further submit that the medical examination in respect of the petitioner as well as the victim girl is over and the statement of the victim girl has also been recorded under Section 164 Cr.P.C. He would further submit that the investigation has been completed and charge sheet has also been laid. Hence, he prays for grant of bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner suppressing his earlier marriage, committed penetrative sexual assault on the victim girl on 15.06.2020 on the false promise of marriage. He would further submit that the investigation is completed and final report has been filed before the Mahila Court, Dharmapuri, on 03.09.2020. However, he vehemently opposed for grant of bail to the petitioner.

5 Heard both sides and perused F.I.R. as well as the statement of the victim girl recorded under Section 164 Cr.P.C.

6 Taking into consideration the facts and circumstances and the submissions made by the learned counsels and the fact that medical examination on the victim girl as well as on the petitioner has been completed and final report has been filed and also considering the period of incarceration undergone by the petitioner from 22.06.2020, 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 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 and thereafter on his release;

(b) the petitioner shall execute **two sureties for a sum of Rs.10,000/- (Rupees ten thousand only) each**, before the learned Judicial Magistrate, Omalur, **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 shall report before the respondent police daily at 10.30 a.m. for a period of two weeks. Thereafter report before the Mahila Court, Dharmapuri at 10.30 a.m. on the 1st working day of October and thereafter, on the dates fixed by the concerned trial Court without fail.

(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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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/-
15/09/2020

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

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

TO

1 THE JUDICIAL MAGISTRATE,OMALUR

2 THE CHIEF JUDICIAL MAGISTRATE
DHARMAPURI DISTRICT [FOR INFORMATION]

3 THE MAHILA COURT,DHARMAPURI

4 THE SUPERINTENDENT,
CENTRAL PRISON,SALEM

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

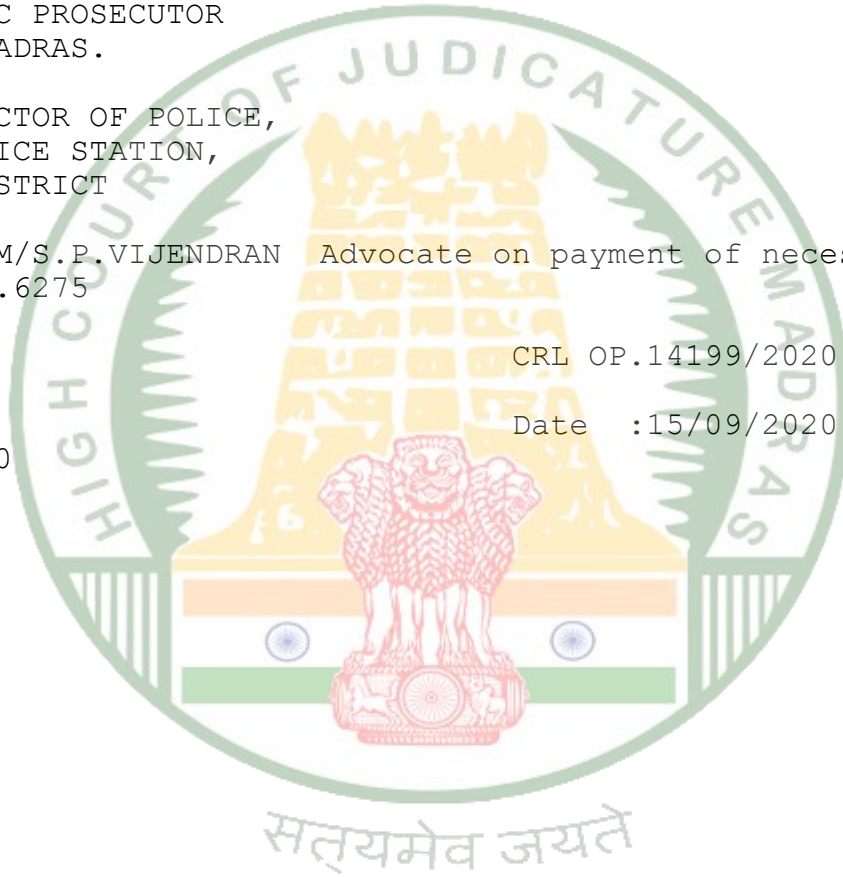
6 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
DHARMAPURI DISTRICT

+1 CC to M/S.P.VIJENDRAN Advocate on payment of necessary
charges SR.NO.6275

CRL OP.14199/2020

Date :15/09/2020

GKS:17/09/2020



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