

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14386 of 2020

Venkatesan

... Petitioner/Sole Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Thiruvarur,
Thiruvarur District.
Crime No. 70 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. 70 of 2020, on the file of the respondent police.

For Petitioner: Mr.V.Sathish

For Respondent : Mrs.S.Thankira

Government Advocate (Crl.Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 19.08.2020 for the offence punishable under Section 6 of POCSO Act, 2012 and Section 366 of IPC and Section 9 of Prohibition of Child Marriage Act, in Crime No. 70 of 2020, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Jamuna is that, the petitioner had kidnapped her minor daughter, aged about 17 years and conducted child marriage and thereafter, he had committed penetrative sexual assault on her minor daughter. Due to which, the victim has become pregnant. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner and the victim belong to the same community and that the petitioner was having love affair with the victim girl. He would submit that the petitioner and the victim, without understanding the rigorous consequences of the POCSO Act, had indulged in a consensual affair, due to which, the victim has become pregnant. Thereafter, a complaint was preferred against the petitioner during the month of February and the petitioner was arrested on 18.08.2020. He would submit that the Statement under Section 164 Cr.P.C. has been recorded from the victim girl, wherein, the victim has stated that there is a love affair between them. He would submit that the parents of the victim had deserted her and now the victim is under the custody of the mother of the petitioner. He would further submit that since the victim is pregnant, the parents of the petitioner are ready to perform the marriage between the petitioner and the victim girl and they are also prepared to take care of the victim and child. 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 daughter of the defacto complainant and had committed penetrative sexual assault on the victim girl. Due to which, she has become pregnant. She would further submit that the medical examination 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 girl. Hence, she opposed to grant bail to the petitioner.

5 Taking into consideration of the facts and submission made by the learned counsels and also considering the fact that the petitioner is in jail from 19.08.2020, 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, Thiruvarur, within a period of 15 days from 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 the respondent police everyday 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/-
22/09/2020

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 JUDICIAL MAGISTRATE,
THIRUVARUR.

2 THE SUPERINTENDENT,
SUB-JAIL, THIRUTHURAIPOONDI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

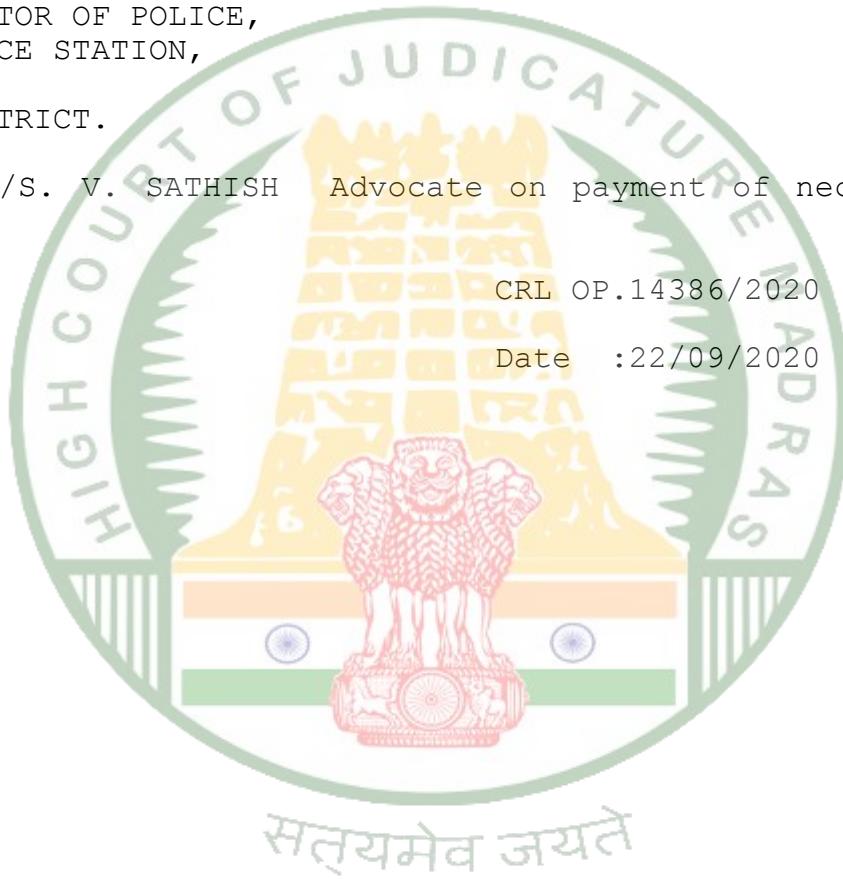
4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVARUR,
THIRUVARUR DISTRICT.

CC to M/S. V. SATHISH Advocate on payment of necessary
charges

CRL OP.14386/2020

Date :22/09/2020

MK:24/09/2020



WEB COPY