

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.09.2020

CORAM :

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

CRL.O.P.No.14508 of 2020

TAMIL MURUGAN

... Petitioner

Vs.

State By
Inspector of Police
Thanipadi Police Station
Thiruvannamalai District
(Crime No.2758 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.2758 of 2020 on the file of the respondent police.

For Petitioner : Mr.S.Silambuselvan

For Respondent : Ms.S.Thankira
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 01.09.2020 for the offences punishable under **Section 366(A) @ Sec. 366(A) IPC and Sec. 4, r/w Sec. 3 (a), 6, r/w 5(1) of POCSO Act, in Crime No.2758 of 2020**, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one Devaki is that the petitioner had kidnapped her minor daughter aged about 17 years in his motor cycle. On the complaint given by the defacto complainant, originally a case was registered for the offence under Section 366(A) IPC and later during the course of investigation, it came to light that the petitioner had kidnapped the minor daughter of the petitioner and committed penetrative sexual assault on her and hence the case was altered to Section 366(A) IPC and Sec. 4, r/w Sec. 3 (a), 6, r/w 5(1) of POCSO Act, The petitioner was arrested and remanded to judicial custody on 01.09.2020.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are friends and they have love affair and when the same was objected by the defacto complainant and her family members. Hence, the victim eloped with the petitioner and stayed in a lodge and on coming to know about the complaint, the petitioner surrendered before the respondent and the victim girl was handed over to her parents. He would further submit that the petitioner is 21 years and the victim girl is 17 years and that without understanding the rigors and consequences of POCSO Act, the petitioner indulged in the said act. He would further submit that the remand report also states that the victim accepted that they frequently had physical relationship and it is not the case of forcible rape. He would further submit that the petitioner is also prepared to marry the victim girl when she attains marriageable age.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner is 21 years and he had kidnapped the minor daughter of the defacto complainant and committed penetrative sexual assault on her. She would further submit that the statement under Section 164 Cr.P.C. has been recorded and the medical examination in respect of the petitioner and the victim girl is completed.

5. Heard the learned counsel on either side. Perused the statement recorded under Section 164 of Cr.P.C. and other materials placed on record.

6. Taking into consideration the above facts and circumstances and the submissions made by the learned Counsels and also considering the fact that the medical examination in respect of the petitioner and the victim is completed and considering the period of incarceration suffered by the petitioner, 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;

(b) Thereafter, the petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand Only)** with two sureties each for a like sum to the satisfaction of the **learned Judicial Magistrate, Chengam, 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 on his release from prison, shall stay at Chennai and report before the Law College Police Station everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limit of the respondent police.

(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/-

24/09/2020

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,
CHENGAM

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
THANIPADI POLICE STATION,
THIRUVANNAMALAI DISTRICT

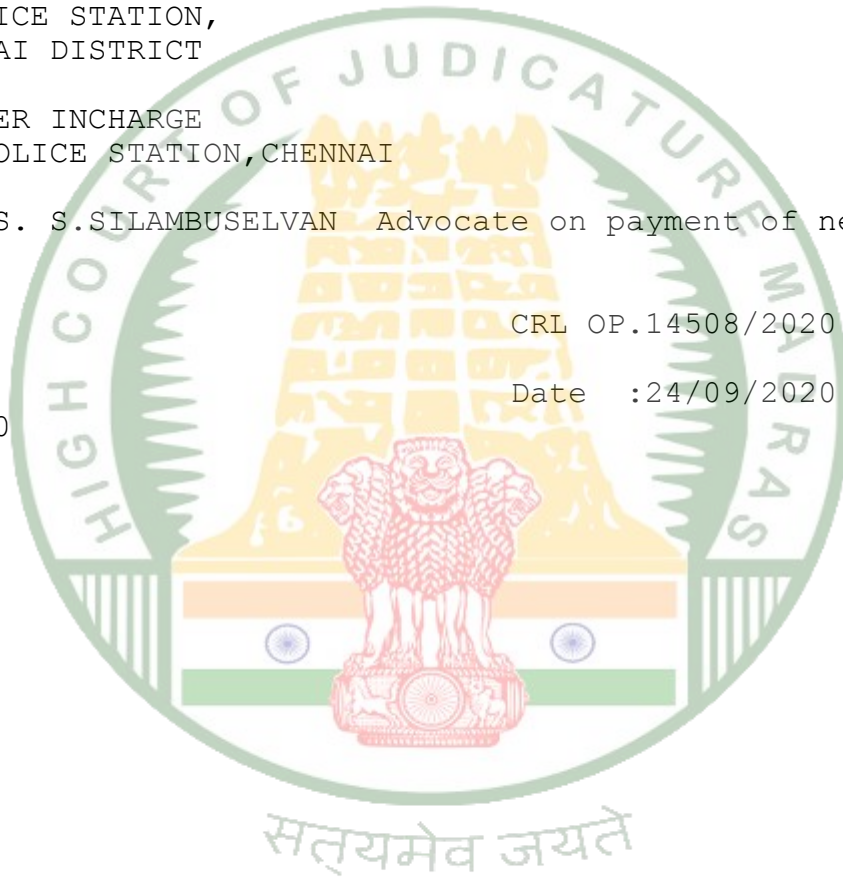
5 THE OFFICER INCHARGE
LAW COLLEGE POLICE STATION, CHENNAI

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

CRL OP.14508/2020

Date :24/09/2020

GKS:25/09/2020



WEB COPY