

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.09.2020

CORAM :

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

CRL.O.P.No.14626 of 2020

Jayakumar

... Petitioner

Vs.

The State rep by its
The Inspector of Police
Harithuvaramangalam Police Station
Tiruvarur
(Crime No.342 of 2020)

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.342 of 2020 on the file of the respondent police.

For Petitioner : Mr.D.Padmanabhan

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 07.08.2020 for the offence punishable under Section 366(A) of IPC @ 366(A) of IPC and Section 6, 5(1) of POCSO Act 2012, in Crime No.342 of 2020, on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Veeramani is that the petitioner kidnapped his minor sister in a motorcycle and when it was prevented by his mother and wife, the petitioner had pushed them and kidnapped his sister. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and a false case has been foisted against the petitioner. Infact, the petitioner and the sister of the defacto complainant were having love affair and the defacto complainant was against the their love affair and used harass and abuse the defacto complainant. Unable to bear the torture, the sister

of the defacto complainant eloped from the house and came along with the petitioner. After coming to know about the registration of the case, the petitioner and the sister of the defacto complainant surrendered before the respondent police and the petitioner was arrested and remanded to judicial custody. He would further submit that a bare reading of F.I.R. would clearly show that the victim had voluntarily accompanied the petitioner. He would further submit that the medical examination in respect of the petitioner as well as the victim girl is over. Hence, he seeks for grant of bail.

4.The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner kidnapped the minor sister of the defacto complainant who is aged 17 years, in a motorcycle. She would further submit that the statement of the victim under Section 164 Cr.P.C. has not been recorded.

5. At this juncture, the learned Counsel for the petitioner would submit that the petitioner is in judicial custody for more than 50 days from 07.08.2020.

6.Heard the learned Counsel on either side and perused the F.I.R.

7.Taking into consideration the facts and circumstances of the case and the submissions made by learned Counsels and also 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 Additional District and Sessions Judge (FAC), Fast Track Mahila Court, Tiruvarur, 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 Vellore and report before the Sathuvachari Police Station, everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police 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.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

23/09/2020

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.

सत्यमेव जयते

TO

1 THE ADDITIONAL DISTRICT AND
SESSIONS JUDGE (FAC),
FAST TRACK MAHILA COURT,
TIRUVARUR.

2 THE OFFICER INCHARGE
SUB JAIL, MANNARGUDI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

WEB COPY

4 THE INSPECTOR OF POLICE,
HARITHUVARAMANGALAM POLICE STATION,
TIRUVARUR.

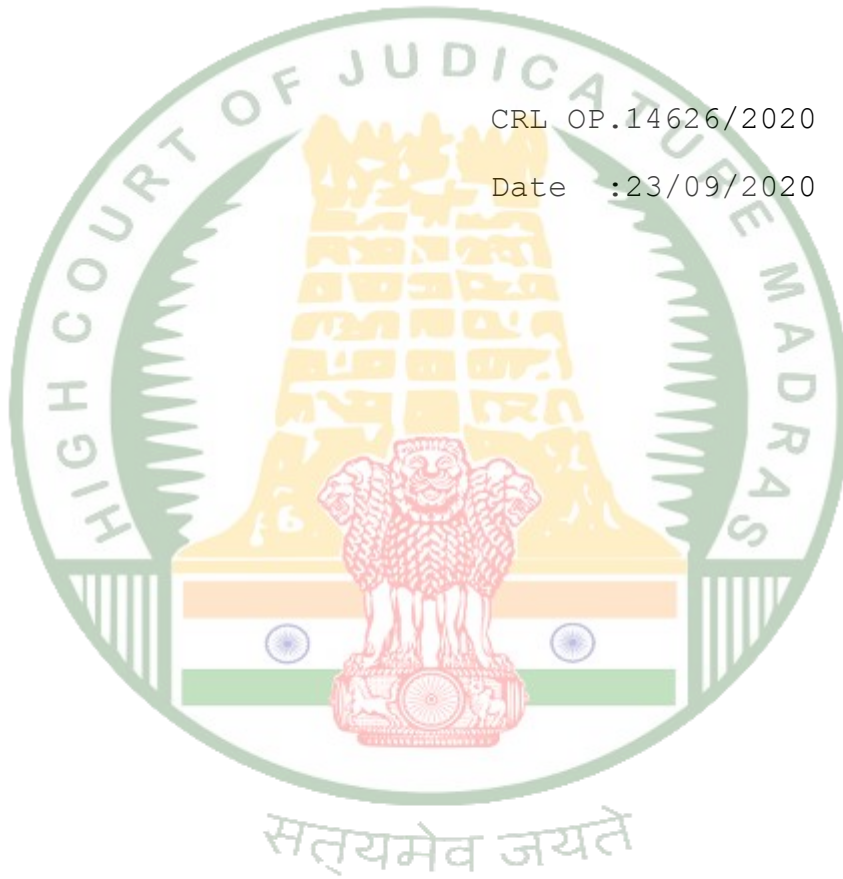
5 THE OFFICER INCHARGE
SATHUVACHARI POLICE STATION
VELLORE.

+1 CC to M/S.D.PADMANABHAN Advocate on payment of necessary
charges SR.No.6399

CRL OP.14626/2020

Date :23/09/2020

cs 24/09/2020



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