

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.09.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No.14826 of 2020

Devaarul

... Petitioner

Vs.

The inspector of Police,
P-1 Pulianthope Police Station,
Chennai.
(Crime No.969 of 2018)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.969 of 2018 on the file of the respondent police.

For Petitioner : Mr.K.P.Chandrasekaran

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 19.08.2020 for the offence punishable under **Section 363 of IPC and Section 6 of POCSO Act, in Crime No.969 of 2018**, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one Mohamed Irfan is that his minor daughter aged about 17 years had gone to the shop and did not return. Based on the complaint given by the defacto complainant, the case was originally registered under caption "girl missing" and later during the course of investigation, it came to light that the petitioner had kidnapped and committed penetrative sexual assault on the victim girl, hence, it was altered to Section 363 of IPC and Section 6 of POCSO Act.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner and the victim girl are friends and since it was objected by the father of the victim girl, she eloped from the house. He would further submit that the petitioner and the victim

girl without understanding rigors and consequences of POCSO Act, had gone to Bangalore and when they came to know about the registration of a complaint, they returned and were secured by the respondent and the petitioner was arrested and remanded to judicial custody. He would further submit that the petitioner understands that the statement under Section 164 Cr.P.C. has been recorded from the victim girl, wherein she had stated that the petitioner did not commit any penetrative sexual assault on her. He would further submit that the love affair has been exaggerated and a case has been registered under the POCSO Act. He would further submit that the medical examination in respect of the petitioner and the victim girl has been completed.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that the petitioner had kidnapped the minor daughter of the defacto complainant and took her to Bangalore. She would further submit that the petitioner and the victim girl were secured and the petitioner was remanded to judicial custody on 19.08.2020. She would further submit that the medical examination did not disclose any sexual assault on the victim girl and further during the investigation, the victim has stated that the petitioner and herself lived as a husband and wife.

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 **Special Court for Exclusive Trial Cases under POCSO Act, Chennai, 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 Sathvachari Police Station everyday at 10.30 a.m. until further orders. The petitioner shall visit the jurisdictional limits 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 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/-

25/09/2020

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 SPECIAL COURT FOR
EXCLUSIVE TRIAL CASES UNDER POCSO ACT,
CHENNAI

2 THE JAILER, SUB JAIL,
SAIDAPET, CHENNAI

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE
P-1, PULIANTHOPE POLICE STATION,
CHENNAI.

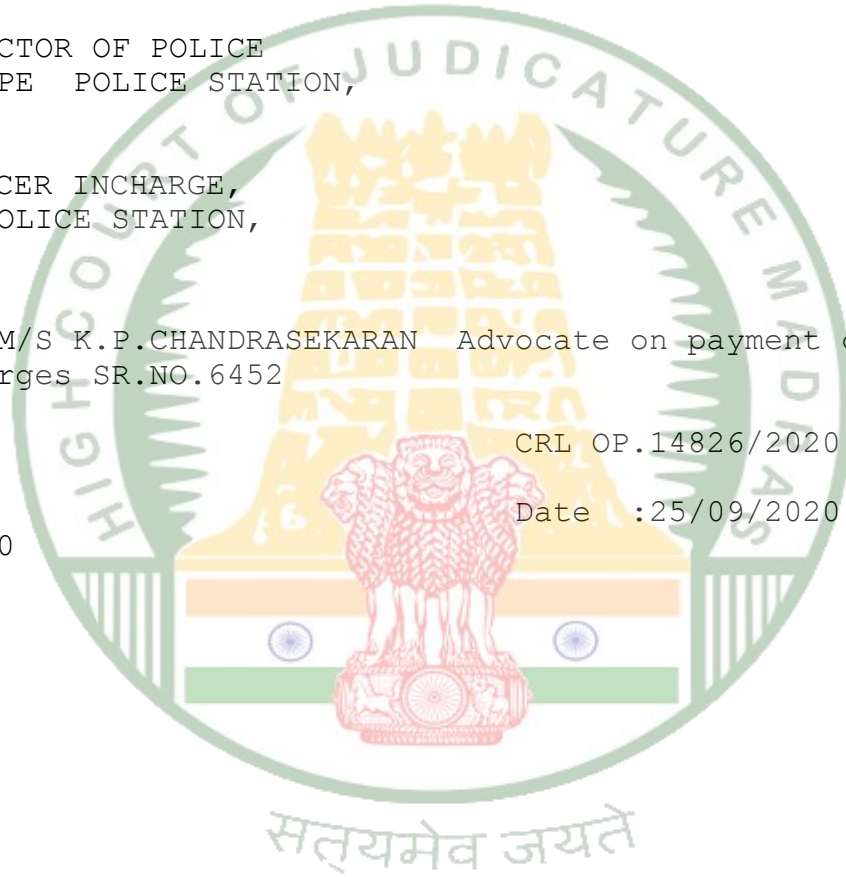
5 THE OFFICER INCHARGE,
SATHVACHARI POLICE STATION,
VELLORE

+1 CC to M/S K.P.CHANDRASEKARAN Advocate on payment of
necessary charges SR.NO.6452

CRL OP.14826/2020

Date :25/09/2020

GKS:29/09/2020



WEB COPY