

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A. D. JAGADISH CHANDIRA

Cr1.O.P.No.16345 of 2020

Mohan

... Petitioner

[*]S/O.RAVI

Vs.

The State Represented by,
The Inspector of Police,
All Women Police Station,
Vellore.

.... Respondent

(Cr.No.16 of 2020)

Prayer: Criminal Original Petition filed under Section 438 of Cr.P.C., to enlarge the petitioner on bail in the event of his arrest in Connection with the Crime No.16 of 2020 pending on the file of the respondent police.

For Petitioner

: Mr.T.Arul

For Respondent

: Mr.M.Mohamed Riyaz,

Additional Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioners who apprehend arrest at the hands of the respondent police for the alleged offences punishable under Sections 376 (2) (n) of IPC r/w. 6, 5 (i), 5 (ii) of POCSO Act 90 F Child Marriage Restraint Act, 1929 , in Crime No.15 of 2020, on the file of the respondent police, seek anticipatory bail.

2. The case was registered based on the information from the officials of the Government Hospital at Adukamparai that one victim girl aged about 15 years was admitted for pregnancy. The respondent police obtained statement from the victim wherein she has stated that her age was 15 years and her mother was suffering from cancer and her father met with an accident and therefore, her relatives arranged the marriage between her and the petitioner herein and they were living as husband and wife. She had conceived

and she was taking treatment in Primary Health Centre and they have referred her for delivery to the Government Hospital. Based on the statement, the case was registered. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that the petitioner is the husband of the victim. The mother of the victim was terminally affected by cancer and her father also met with an accident thereby her relatives had arranged the marriage between the petitioner and the victim. The petitioner was informed that the victim had attained majority and she is also of marriageable age and believing the same the petitioner agreed for marriage and the marriage was performed in the presence of relatives and elders in the village. Thereafter, they were living as husband and wife, the victim has become pregnant and she has also delivered a baby. He would submit that the medical examination of the victim and the petitioner had been conducted and the victim also given a statement under Section 164 Cr.P.C., wherein she has stated that the marriage was arranged by the parents. He would further submit that the petitioner takes responsibility for the victim girl and he is the father of the child and that they were living as husband and wife. Hence, he prays for grant of anticipatory bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the parents of the victim were arranged the marriage between the victim and the petitioner and they lived as husband and wife and she became pregnant and she had delivered a child. At the time of marriage, the age of the victim was 15. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

5. At this juncture, the learned counsel for the petitioner would submit that the petitioner being a rustic villager without understanding the rigours of the POCSO and also believing the age of the victim girl to be more than 18 years, had agreed for the marriage.

6. Taking into consideration the facts and submissions of the learned Counsel, this Court is inclined to grant anticipatory bail to the petitioner subject to the following conditions;

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen (15) days from the date on which the copy of the order is made ready, before the Judicial Magistrate No.I, Vellore, on condition that each of 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent Police daily at 10.30 a.m., for a period of two weeks and thereafter every Monday at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.

[e] On breach of any of the aforesaid conditions, the learned 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].

[f] 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/-
14/10/2020

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

सत्यमेव जयते
TRUE COPY

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

[*]Amended as per order of this Court dated 21/12/2020 made in CRL.MP.NO.8491 OF 2020 IN CRL.OP.NO.16345 OF 2020

TO

1 THE JUDICIAL MAGISTRATE NO.I,
VELLORE.

2 THE CHIEF JUDICIAL MAGISTRATE
VELLORE. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
VELLORE.

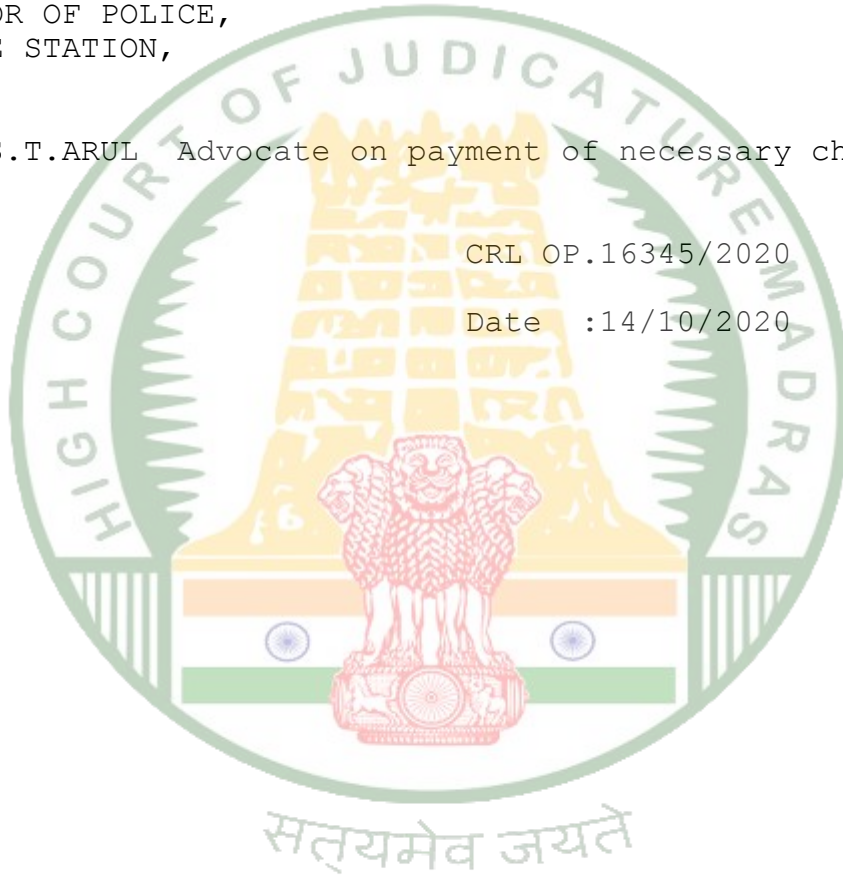
+1CC to M/S.T.ARUL Advocate on payment of necessary charges
SR NO.8657

CRL OP.16345/2020

Date :14/10/2020

TA-29/10/2020

MK:30/12/2020



WEB COPY