

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.15425 of 2020

Gopinath

... Petitioner

Vs.

The Inspector of Police,
All Women Police Station,
Nagappattinam.
(Crime No.3 of 2020)

... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.3 of 2020 on the file the All Women Police Station, Nagappattinam.

For Petitioner : Mr.N.Kalainesan

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (CrI. 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 15.08.2020 for the offences punishable under Section 8 of POCSO Act r/w Section 506(i) of IPC, in Crime No.3 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant is that the petitioner who is the brother in law of her had sexually abused her daughter by hugging her inappropriately and also touched her breasts on 05.09.2019 at Velankanni and the act of the petitioner was disclosed by her daughter on the next day i.e. 06.09.2020 and the complaint was given on 04.10.2019, when they returned to their native place.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case due to family rivalry on account of sharing of family property. He would further submit that the petitioner has been married to the sister of the defacto complainant and that it was a love marriage. Apart from the petitioner's wife, there are two other daughters in their family and the mother of the defacto complainant

has given one property (five cents) situated at Survey No.581-10A-1 in Boodalur Village to the petitioner's wife, due to which, there was enmity between the petitioner's wife and the defacto complainant and thereby a false complaint has been given against him. He would further submit that the mother in law of the petitioner who is also the mother of the defacto complainant has filed a sworn affidavit before this Court stating that the complaint has been given against the petitioner with false allegation in order to wreck vengeance against him.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner is the brother in law of the defacto complainant who had misbehaved with the minor daughter of the defacto complainant by hugging and touching her inappropriately. The incident happened on 05.09.2019 and the same was informed to the defacto complainant on 06.09.2019. Originally a complaint was given before All Women Police Station, Tanjore and a case was registered in Crime No.10 of 2019 and later on the point of jurisdiction, it was transferred to the present respondent police and registered in Crime No.3 of 2020 for the alleged offence. He would further submit that the petitioner was arrested on 15.08.2020 and that investigation has been completed and the charge sheet also laid before the POCSO Court, Nagapattinam on 10.09.2020 and the same has not been taken on file so far. He would further submit that the victim girl in her statement recorded under 164 Cr.P.C. has stated that the petitioner had touched and hugged her inappropriately.

5.Heard the learned counsels on either side. Perused the 164 statement recorded from the victim girl. The affidavit of Tmt.Tamilselvi, the mother in law of the petitioner and mother of the defacto complainant is taken on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also the affidavit filed by the Tamilselvi w/o. Rangan, aged about 63 years, who is the mother of the defacto complainant and the mother in law of 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 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 District Sessions Court (Special Court Under POCSO Act), Nagappattinam, and on further conditions that:

(b) 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;

(c) the petitioner on his release from prison shall report before the POCSO Court on all working days at 10.30 a.m. for a period of one month and thereafter shall report on the date fixed by the POCSO Court.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) 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];

(h) 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/-

08/10/2020

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 DISTRICT SESSIONS COURT
(SPECIAL COURT UNDER POCSO ACT),
NAGAPATTINAM.

2 THE SUPERINTENDENT,
CENTRAL PRISON,
NAGAPATTINAM.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

WEB COPY

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

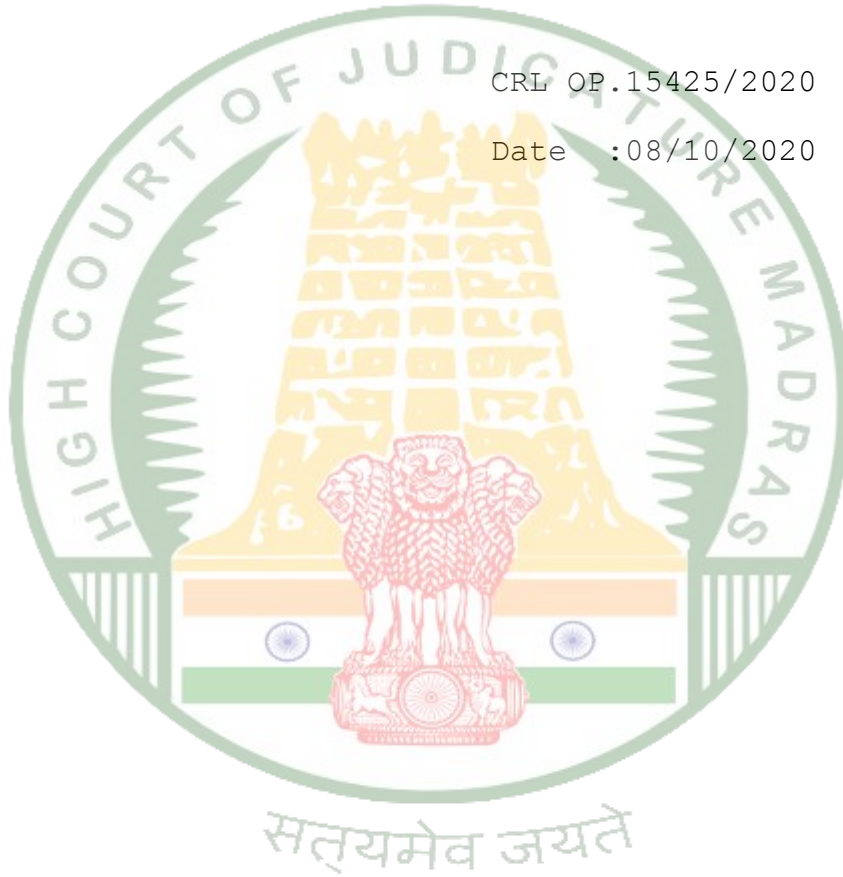
5 THE OFFICER INCHARGE,
POCSO COURT, NAGAPATTINAM.

+1 CC to M/S.N.KALAINESAN Advocate on payment of necessary charges
SR.No.6744

CRL OP.15425/2020

Date :08/10/2020

cs 09/10/2020



WEB COPY