

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 19.11.2020

CORAM :

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

CRL.O.P.No.16422 of 2020

Surya

... Petitioner

Vs.

State Rep.By

The Inspector of Police,
All Women Police Station-13,
Old Washermenpet, Chennai-600 021.
(Crime No.14 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail pending investigation in All Women Police Station-13, Cr.No.14 of 2020 on the file of the respondent police, Old Washermenpet, Madras.

For Petitioner : Mr.G.Krishnamurthy

For Respondent : Mr.T.Shunmugarajeswaran
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 15.09.2020 for the offences punishable under Sections 6 of Protection of Children from Sexual Offences, Act 2012 (as amended) for allegedly having committed sexual intercourse by inducing a girl under legal age, in Crime No.14 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Iyammal is that on 14.09.2020 her victim minor daughter was found to be pregnant and when she had enquired, her daughter informed her that one Surya, who is known to her had induced her on the assurance of marrying her and had sexual intercourse with her several times and that he is only responsible for her pregnancy. Thereafter, the defacto complainant approached the parents of the petitioner and the parents of the petitioner stated that their son is not responsible for the victim girl's pregnancy and also they refused to make arrangements for their marriage and thereby there was a quarrel between them. Hence the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he would submit that the petitioner and the defacto complainant are neighbours and that the victim and the petitioner are known to each other from their childhood. They had without understanding the rigors and consequences of POCSO Act, had consensual affair, due to which, the victim became pregnant. He would further submit that the parents of the petitioner and the parents of the victim had a quarrel only. He would further submit that later the matter has been compromised between the parties and that the parents of the petitioner have also agreed that once the victim minor girl attains marriageable age, they will arrange for their marriage. He would further submit that the medical examination in respect of the petitioner and the victim has been completed and the statement under Section 164 Cr.P.C. has also been recorded from the victim girl. He would further submit that even as per the statement recorded from the victim girl, he understands that the victim girl has stated that they were in friendship for a long time and that the relationship was consensual in nature. He would further submit that the parents of the petitioner have also filed individual affidavits, wherein, they have agreed to make arrangements for the marriage between the petitioner and the victim girl once she attains marriageable age and the parents of the petitioner have also accepted the paternity and that they have also agreed to take care of the maintenance of the child. He would further submit that the petitioner is in custody from 15.09.2020 and the major part of the investigation is over. He would further submit that the victim is 17 years now.

4.The learned Government Advocate (Crl. Side) would vehemently oppose stating that the petitioner had induced the victim girl who is aged about 16 years under the false assurance of marriage and committed sexual intercourse with her. He would further submit that due to which, she became pregnant and the victim is still carrying.

5.Heard the learned counsel on either side. Perused the materials placed on record including F.I.R., the individual affidavits filed by the parents of the petitioner, the statement recorded under Section 164 Cr.P.C. from the victim girl and also the Accident Register.

6.Taking into consideration of the facts and submissions made by the 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 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 Special Judge, under POCSO Act, 2012 (as amended) at Madras, 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 respondent police everyday at 10.30 a.m. until further orders.

(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/-

19/11/2020

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

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सत्यमेव जयते

Sub-Assistant Registrar (Statistics/C.S.)

High Court, Madras - 600 104.

WEB COPY

TO

1 THE SPECIAL JUDGE,
UNDER POCSO ACT 2012, MADRAS

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL,
CHENNAI

<https://hcservices.ecourts.gov.in/hcservices/>

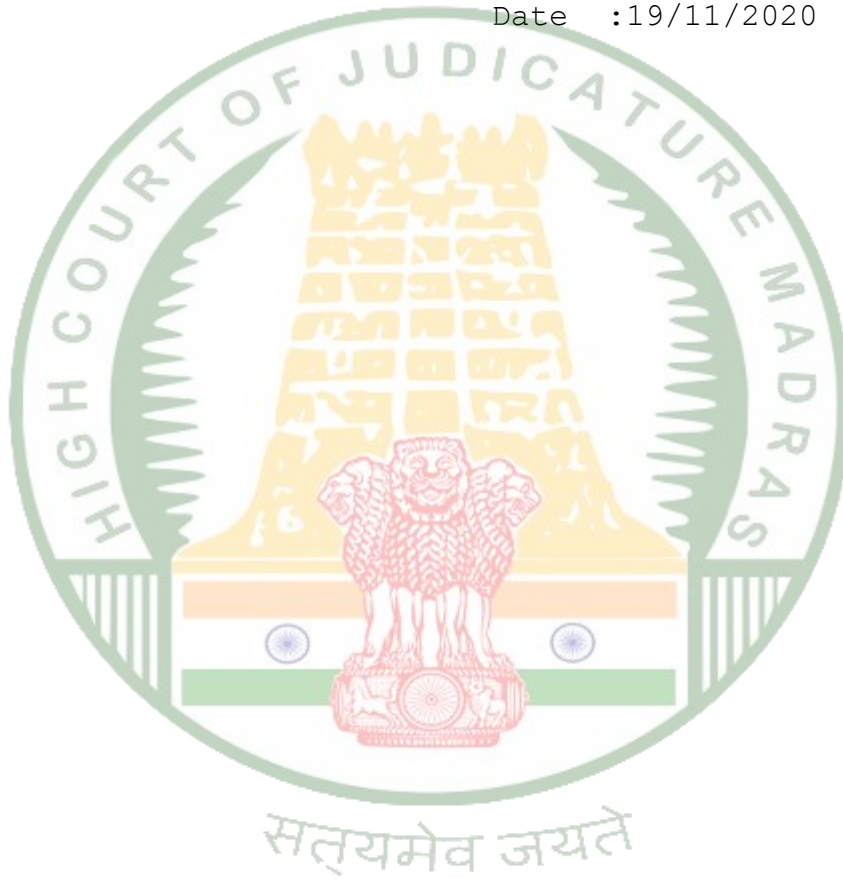
4 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
OLD WASHHERMANPET,
CHENNAI- 600 021.

CC to M/S G.KRISHNAMURTHY Advocate on payment of necessary
charges Sr.7646

CRL OP.16422/2020

Date :19/11/2020

RVR 20/11/2020



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