

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 03.11.2020

CORAM :

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

CRL.O.P.No.17028 of 2020

ASHOKRAJ

... Petitioner

Vs.

The State rep by
The Inspector of Police,
Sunguvarchathiram Police Station,
Kancheepuram District.
(Crime No.992 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Cr.No.992/2020 pending investigation on the file of the respondent police.

For Petitioner : Mr.T.Arul

For Respondent : Mr.T.Shunmugarajeswaran
Government Advocate (Crl. Side)

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 24.08.2020 for the offences punishable under Section 363, 366, 376(3) of IPC and under Section 4, 5(1), 6 of POCSO Act 2012, in Crime No.992 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Indrani is that her minor daughter aged about 17 years was found missing. Based on the complaint given by her, a case was registered under the caption "Girl missing" and during the course of investigation, it was found that the petitioner had kidnapped her minor daughter and committed penetrative sexual assault on her repeatedly and hence the case was later altered under Sections 363, 366, 376(3) of IPC and under Section 4, 5(1), 6 of POCSO Act 2012.

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 neighbours and they belong to the same community and they loved each other. When the parents of the victim girl came to know about the affair between them, they had arranged for a marriage for the victim girl against her wishes, due to which, the victim eloped from her house and joined with the petitioner. He would further submit that when the petitioner came to know about the registration of the case, he along with the victim girl surrendered before the respondent police and thereafter, the petitioner was arrested and remanded to judicial custody. He would further submit that the petitioner being a younger person of 21 years, without understanding the rigors and consequences of POCSO Act, had committed the offence. He would further state that the petitioner understands from the statement recorded from the victim girl under Section 164 Cr.P.C. that she has stated that she had accompanied the petitioner to his house voluntarily. Every inmate of the house was aware of it and it was not the case where the petitioner had committed sexual assault on the victim girl. He would further submit that the petitioner is in judicial custody for more than 70 days.

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 had committed repeated penetrative sexual assault on her. He would further submit that the medical examination of the petitioner as well as the victim girl is over and the statement under Section 164 Cr.P.C. has also been recorded from the victim girl, wherein, she had stated that on her own volition she had gone along with the petitioner and stayed in his house.

5.Heard the learned Counsel on either side. Perused the F.I.R. and the statement recorded from the victim girl under Section 164 Cr.P.C. and also the other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration of 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 Judicial Magistrate Court, Sriperumandur Kancheepuram District 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/-

03/11/2020

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

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

TO

1 THE JUDICIAL MAGISTRATE COURT,
SRIPERUMANDUR, KANCHEEPURAM DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
CHENGALPATTU [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL-II, CHENNAI-66

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

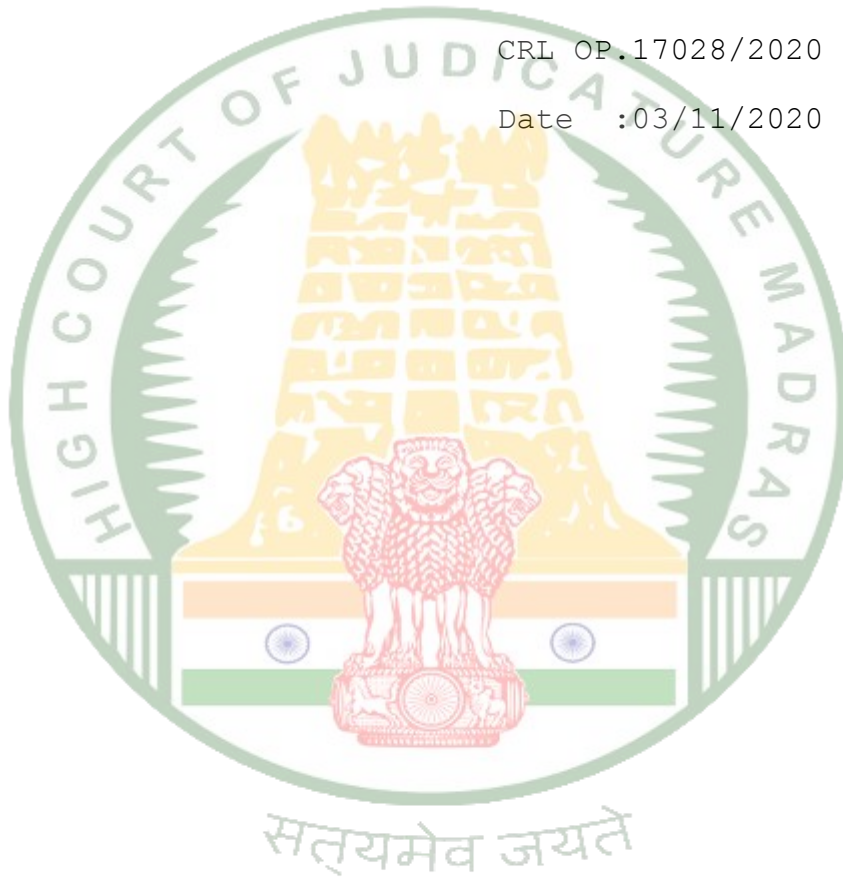
5 THE INSPECTOR OF POLICE,
SUNGUVARCHATHIRAM POLICE STATION,
KANCHEEPURAM DISTRICT

CC to M/S.T.ARUL Advocate on payment of necessary charges

CRL OP.17028/2020

Date :03/11/2020

cs 04/11/2020



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