

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2020

CORAM :

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

Cr1.O.P.No.17193 of 2020

Manibharathi

... Petitioner

Vs.

State rep by
Inspector of Police
All Women Police Station
Thiruthani
Thiruvallur District
(Crime No.8 of 2020)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 438 of Criminal Procedure Code to enlarge the petitioner on bail in the event of his arrest in Crime No.8 of 2020 on the file of the Respondent.

For Petitioner : Mr.R.Ezhilarasan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

(This Case has been heard through video conferencing)

The petitioner, who apprehends arrest at the hands of the respondent police for the alleged offences punishable under Section 363, 313, 506(ii) IPC and Sections 4, 5(1) and 6 of POCSO Act, in Crime No.8 of 2020, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution as per the defacto complainant /victim girl is that she has completed 12th Std. and that she was in love with one Althap/ A1 for the past 2 ½ years. The further allegation is that the A1 on the promise of marrying her had taken her to several places and that on 25.05.2019 when no one was at her house, A1 came to her house and on compulsion had sexual intercourse with her. Thereafter, whenever nobody was at home, A1 used to come to her house and have sexual intercourse, due to which, she became pregnant and when she had informed A1 he told her not to disclose it to anybody. Thereafter, their love affair was revealed to the parents

of the petitioner and A1 along with his parents opposed the same. While so, on 12.09.2019, A1 had taken her to Vellore and from there he took her to Nagoorr by bus and stayed there for one week, during that time, on 20.09.2019 the friends of A1 came there, compelled and had taken her in the car and when she was in the car, the friends of A1 gave her four tablets on compulsion, due to which she had bleeding and thereafter on the same day they came back to Sholingur and handed over her to her parents. Thereafter, A1 had given an undertaking to her parents that once the victim attains majority, when she completes her 18 years, he will marry her. While so, on 28.08.2020 the defacto complainant along with her relatives had gone to the house of A1, at that time, A1's parents and his relatives refused to agree for the marriage and said that their son had gone abroad and if they come to their house again for the proposal, they would be done to death. Based on the complaint a case was registered for the offences under sections 363, 313 and 506(II) IPC and sections 4,5(1), and 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 since he is known to A1. He would further submit that the allegation against the petitioner is that he along with his friends had taken the victim and A1 in a car and on compulsion they gave her four tablets, due to which, she suffered miscarriage. He would further submit that the petitioner has been unnecessarily roped into this case to put pressure on A1 and his family members. He would further submit that both the families of A1 and the defacto complainant have compromised and only after that A1 had left abroad. In order to put pressure on them, the petitioner has been roped into this case and he understands that an exaggerated version of the statement has been given. He would further submit that the father of A1 and some of his friends have been arrested and enlarged on bail. Other than being a driver, the petitioner has not done anything and he has not sexually harrassed the victim girl.

4.The learned Additional Public Prosecutor appearing for the respondent would vehemently oppose stating that the petitioner is the friend of the main accused and due to the sexual assault, the victim became pregnant. Thereafter, the friends of A1 including this petitioner had taken her in a car and gave her some tablets, due to which, she suffered miscarriage. He would further submit that A1 is presently abroad and some of the friends of A1 have been arrested and enlarged on bail. He would further submit that the medical examination of the victim girl has been over and statement under section 164 Cr.P.C. has been recorded from the victim girl.

5.Heard the learned counsel on either side. Perused F.I.R. and all the materials placed on record including the statement recorded under section 164 Cr.P.C.

6. Taking into consideration of the facts and circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

(a) Accordingly, the petitioner is directed to be released on bail in the event of arrest or on his appearance and the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten thousand only), with two sureties each for the like sum to the satisfaction of the Mahila Court, Thiruvallur, failing which the petition for anticipatory bail shall stand dismissed automatically;

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

[c] **the petitioner shall report before the respondent police everyday at 10.30 a.m., until further orders.**

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

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

[f] 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]**.

[g] 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/-

16/12/2020

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 MAHILA COURT,
THIRUVALLUR.

2 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUTHANI, THIRUVALLUR DISTRICT.

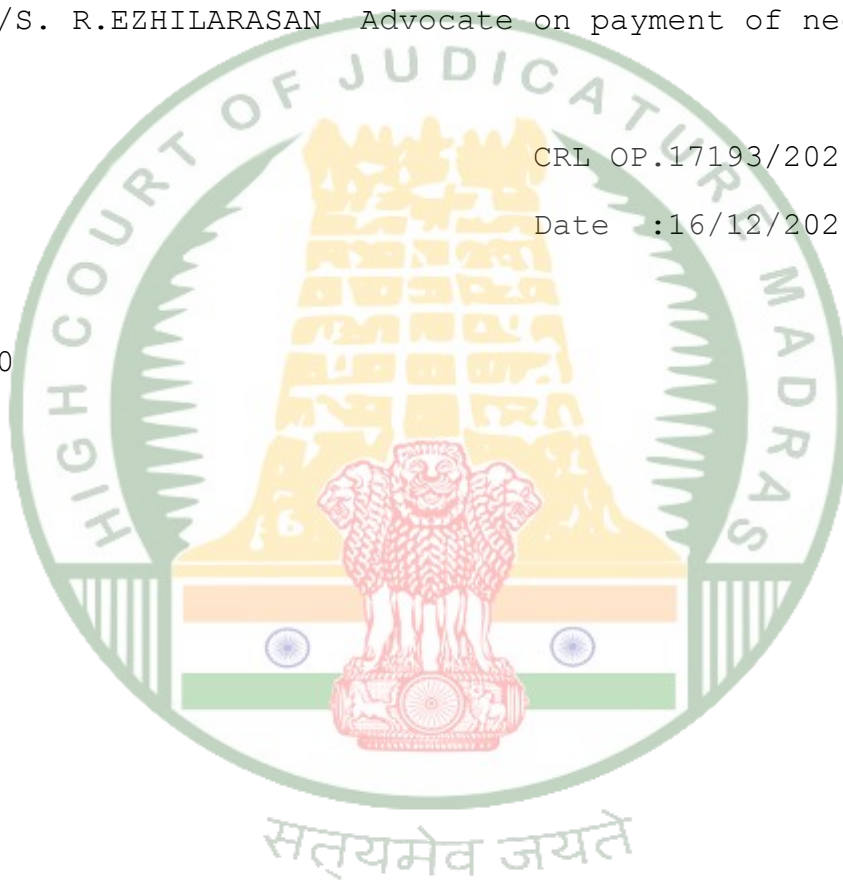
3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. R.EZHILARASAN Advocate on payment of necessary
charges

CRL OP.17193/2020

Date :16/12/2020

MN-28/12/2020



WEB COPY