

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.11.2020

CORAM :

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

CRL.O.P.No.17257 of 2020

MURUGAN @ SUBRAMANIYAN

... Petitioner

Vs.

The State Rep.By
Inspector of Police,
All Women Police Station,
Nannilam,
Thiruvarur District.
(Crime No.11 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.11 of 2020 on the file of the Inspector of Police, All Women Police Station, Nannilam, Thiruvarur District.

For Petitioner : Mr.Swami Subramanian

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

ORDER

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 27.08.2020 for the offences punishable under **Section 7 read with 8, 8 r/w.17 of Protection of Children from Sexual offences Act 2012**, in Crime No.11 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant Baskar is that he was married to one Mahalakshmi for 25 years and they have been separated for the past 10 years and that the said Mahalakshmi was having illegal intimacy with one Murugan/the petitioner herein. The daughter of the defacto complainant was also stayed with the wife of the defacto complainant. While so, on 23.08.2020, his daughter had complained with his wife that the petitioner misbehaved with her by inappropriately touching her breast. When her daughter informed to his wife, she has threatened her not to inform the same to anyone else saying that she would see to it that no such incident would happen. However, the daughter of the defacto complainant informed the same to the defacto complainant. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the defacto complainant got antagonized since his wife was living with the petitioner and in order to wreck vengeance, a false complaint has been given against the petitioner. Even as per the allegations in the F.I.R., the petitioner is stated to have inappropriately touched the breast of the victim and there is no other allegation of penetrative sexual assault. He would further submit that the medical examination in respect of the petitioner as well as the victim girl is over and the statement of the victim was also recorded under Section 164 Cr.P.C. The petitioner understands that even as per the statement of the victim girl, recorded under Section 164 Cr.P.C., she has stated that the petitioner has touched her breast inappropriately other than that there is no other allegation against the petitioner. He would further submit that the petitioner has been suffering incarceration for more than 65 days from 27.08.2020. Hence, he prays for grant of bail to the petitioner.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner is the paramour of the mother of the victim girl. The petitioner has touched the breast of the victim inappropriately. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C., the investigation has been completed and Charge Sheet has been filed before the Additional Mahila Court, Tiruvarur, and it has not been taken on file.

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 **learned District Munsif Cum Judicial Magistrate, Nannilam, Thiruvarur 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 stay at Chennai, and report before the Flower Bazaar Police Station, everyday at 10.30 a.m. until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police 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/-
04/11/2020

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 DISTRICT MUNSIF CUM JUDICIAL MAGISTRATE,
NANNILAM, THIRUVARUR DISTRICT.

2 THE CHIEF JUDICIAL MAGISTRATE
THIRUVARUR. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
NANNILAM, THIRUVARUR DISTRICT.

5 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUCHIRAPALLI.

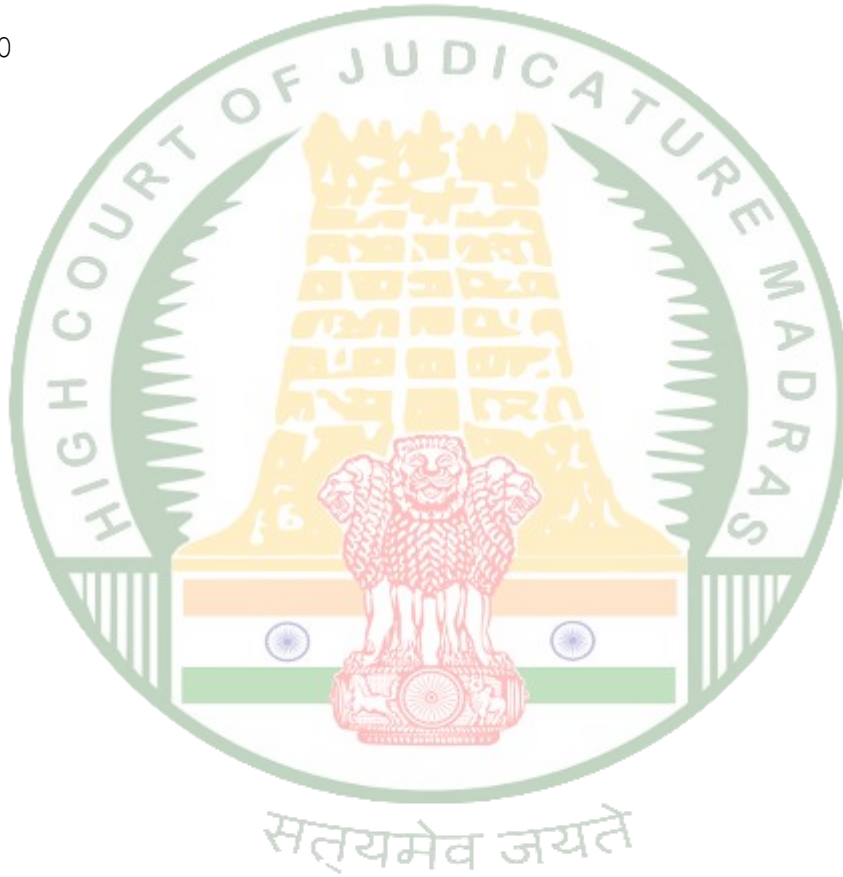
6 THE OFFICER INCHARGE,
BAZAAR POLICE STATION,
CHENNAI.

CC to M/S. SWAMI SUBRAMANIAN Advocate on payment of necessary
charges

CRL OP.17257/2020

Date :04/11/2020

TA-05/11/2020



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