

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 30.11.2020
Pronounced on: 03.12.2020

CORAM

THE HONOURABLE MR.JUSTICE. M.NIRMAL KUMAR

CrI.O.P.No.18106 of 2020

Geetha ... Petitioner

Vs.

State:

The Inspector of Police,
W-24, All Women Police Station,
Teynampet,
Chennai.

(Cr.No.7 of 2019) ... Respondent

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C, to enlarge the petitioner on bail pending investigation in Crime No.7 of 2019 on the file of the respondent police.

For Petitioner : Mr.E.Soundarrajan

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

ORDER

This case has been heard through video conference

The petitioner/A2, who was arrested and remanded to judicial custody on 21.10.2020 for the offence punishable under Sections 506(i) of IPC r/w Section 12 and 17 of Protection of Childs from sexual Offence Act 2012, in Crime No. 7 of 2019 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 06.11.2019, the defacto complainant is the mother of the victim girl lodged a complaint to the respondent police against the first accused viz., Santhosh Kumar husband of this petitioner, stating that she is residing at No.11/6 Pathrikarai T.Nagar Chennai for the past 9 months. Further, the petitioner and the defacto complainant were working in the same school. The defacto complainant's husband was a two wheeler mechanic and her son aged about 20 years and daughter aged about 16 years. The defacto complainant is working as maid and the petitioner is a supervisor in the same school. On 05.11.2019 the neighbour had informed to the

defacto complainant that A1 in this case had sexually assaulted her daughter. Further, the petitioner's husband shown obscene pictures in the mobile phone and compelled the victim to perform the same with him, further he threatened the victim with dire consequences, if she discloses the same to any one. Further, the petitioner as well as her husband threatened the victim girl and not to disclose the same. The petitioner had abetted her husband in commission of the offence. On registration of the complaint, the petitioner's husband was arrested in this case in the month of May 2019. As far as this petitioner is concerned, she is arrayed as an accused, on the strength of 164 statement recorded from the victim girl. Hence, the petitioner was arrested.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the supervisor in the school and the defacto complainant was working as a maid. He would further submit that the victim girl was studying in the corporation school at Nungambakkam. The petitioner as well as the defacto complainant both attend the school together and the petitioner had no knowledge of any such harassment and sexual assault committed by the petitioner's husband. When the defacto complainant had a problem, the petitioner helped her by letting the portion of her house without getting any advance from her. He would further submit that the petitioner is an innocent person and she has been falsely implicated in this case. He would further submit that there is no previous case as against the petitioner and the petitioner is in judicial custody from 21.10.2020 and seeks bail for the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that the daughter of the defacto complainant is aged about 17 years, the defacto complainant was working as Maid in a school and the petitioner is working as supervisor in the same school. He would further submit that the petitioner's husband A1 used to make advances and sexually assaulted the victim girl. He would further submit that the victim girl, in her 164 statement, had implicated the petitioner, the petitioner abetted A1 in this case to commit the offence against the victim girl. Hence, he vehemently opposed for grant of bail to the petitioner.

5. Taking into consideration the nature of allegations against the petitioner in the FIR and the improvements made in the 164 statement, which is of great variance and also taking note of the fact that the investigation almost completed and the petitioner is in judicial custody from 21.10.2020, this Court is inclined to grant bail to the petitioner, subject to the following conditions:

(a) the petitioner is ordered to be released on bail and she shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) each, with two sureties before the Special Court for POCSO Act, Chennai.

(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 shall report before the respondent police daily at 10.30 a.m., for a period of two weeks and thereafter before the trial Court on all hearing dates.

(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.

6. With the above directions, this Criminal Original Petition is ordered.

WEB COPY
-sd/-
03/12/2020

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 SPECIAL COURT FOR POCSO ACT,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON FOR WOMEN,
PUZHAL.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

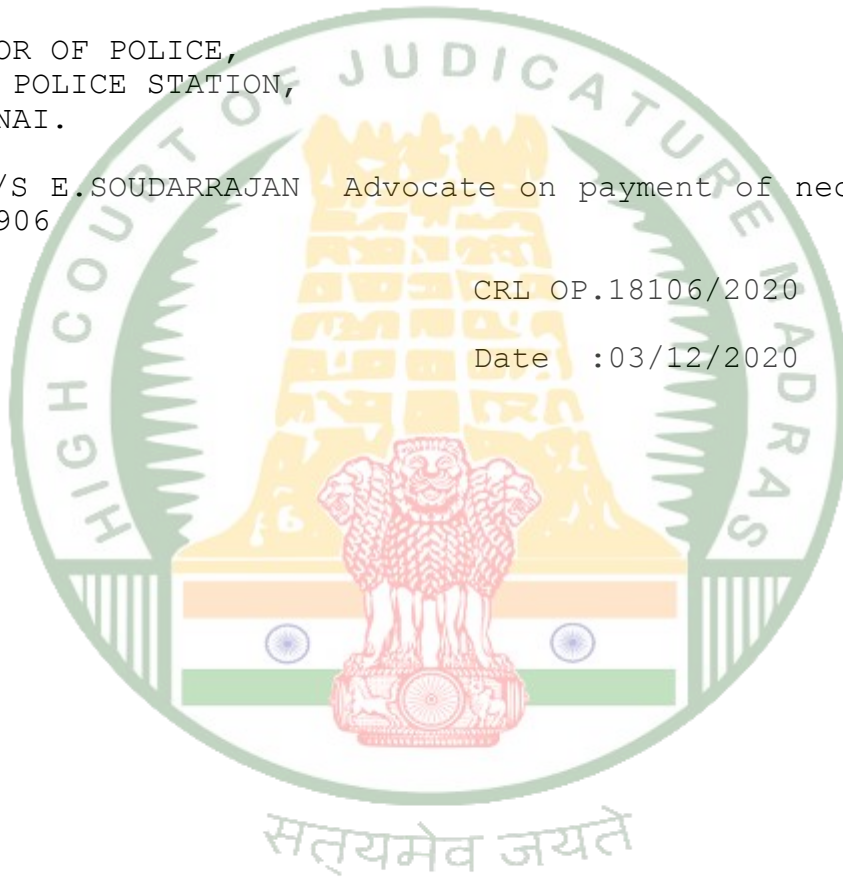
4 THE INSPECTOR OF POLICE,
W-24, ALL WOMEN POLICE STATION,
TEYNAMPET, CHENNAI.

+1CC to M/S E.SOUDARRAJAN Advocate on payment of necessary
charges SR NO.7906

CRL OP.18106/2020

Date :03/12/2020

MK:04/12/2020



WEB COPY