

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.12.2020

CORAM :

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

CRL.O.P.No.19184 of 2020

1.N.Vadivel
2.P.Shanmugam

...Petitioners

Vs.

The State by
The Inspector of Police
Krimangalam Police Station,
Dharmapuri District.
Crime No.1279 of 2020

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioners on bail in Crime No.1279 of 2020 pending investigation on the file of the respondent police.

For Petitioners : Mr.J.Bharathi Raja

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

ORDER

(The case has been heard through video conference)

The petitioners, who were arrested and remanded to judicial custody on 29.09.2020 for the offence punishable under Section 174 (3) of Cr.P.C., and later altered into Sections 9, 10 of Child Marriage Act 2006, 5(i), 6 of POCSO Act read with 306 of IPC in Crime No.1279 of 2020, seek bail.

2. The case of the prosecution as per the *de facto* complainant Shanmugam is that he had received an information that his daughter one Devi Kala was in love with one unknown person. Since, her activities were not proper, he arranged marriage between his daughter and one Vijayakumar aged 25 years and their marriage was conducted on 03.06.2020 at Murugar Temple, Theerthamalai. Thereafter, his daughter and his son-in-law were living happily. While so, on 02.07.2020 his daughter and son-in-law had come to his house and on the next day i.e. 03.07.2020 at 2.30 p.m., his daughter was found dead by hanging.

3. The learned counsel appearing for the petitioners would submit that the petitioners are innocent and they have been falsely implicated in this case. He would submit that the first petitioner is the father-in-law of the deceased and the second petitioner is the father of the deceased. He would submit that the second petitioner had arranged the marriage of his daughter/victim to the son of the first petitioner. However, since the victim did not like the marriage, she committed suicide, whereas a false case has been projected by the prosecution as if the petitioners compelled her to get married, since she was found to have a relationship with someone in other community. He would further submit that the victim has committed suicide only due to matrimonial discard and that a major part of the investigation is also over. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would vehemently oppose stating that it is a case where the victim girl aged 16 years fell in love with a person belonging to other community. On coming to know about the same, the second petitioner, who is the father of the deceased, arranged marriage between the victim girl and one Vijayakumar, who is the son of the first petitioner herein, against the wishes of the victim girl. Further, the son of the first petitioner committed repetitive penetrative sexual assault on the victim girl against her wish, due to which, the victim girl committed suicide by hanging. Originally, the case was registered as a case of suicide and later, during the course of investigation, it was altered into one under Sections 9 and 10 of Child Marriage Act 2006, 5(i), 6 of POCSO Act read with 306 of IPC. He would further submit that the investigation is pending in this case.

5. At this juncture, the learned counsel for the petitioners would submit that as far as the first petitioner Vadivel is concerned, he is only the father of the husband of the victim girl. He would further submit that the second petitioner had arranged the marriage suppressing the facts and thereby, the first petitioner had agreed for the marriage.

6. Heard the learned counsel on either side and perused the materials available on record.

7. Taking into consideration the facts and submissions made by the learned counsels, this Court is not inclined to grant bail to the second petitioner and accordingly, this Criminal Original Petition is dismissed as far as the second petitioner is concerned. Insofar as the first petitioner is concerned, this Court is inclined to grant bail subject to the following conditions:

(a) Accordingly, the first 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 Fast Track Mahila Court, Dharmapuri 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 first petitioner shall stay at Salem and report before Salem Town police station everyday at 10.30 a.m., until further orders;

(d) the first petitioner shall not commit any offences of similar nature;

(e) the first petitioner shall not abscond either during investigation or trial;

(f) the first 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 first petitioner in accordance with law as if the conditions have been imposed and the first 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 abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered as far as the first petitioner is concerned.

-sd/-

07/12/2020

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.

TO

1 THE JUDGE,
FAST TRACK MAHILA COURT,
DHARMAPURI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE JAILER,
SUB JAIL, HARUR.

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4 THE INSPECTOR OF POLICE,
KARIMANAGALAM POLICE STATION,
DHARMAPURI DISTRICT.

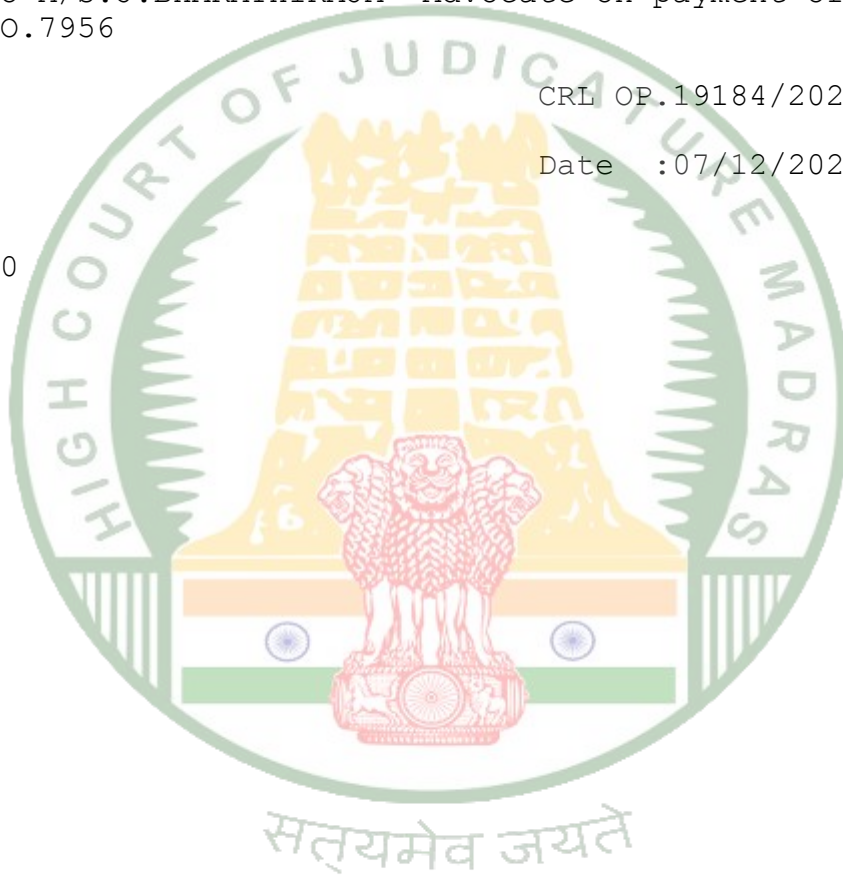
5 THE OFFICER INCHARGE,
SALEM TOWN POLICE STATION,
SAELM.

+1 CC to M/S.J.BHARATHIRAJA Advocate on payment of necessary
charges SR.NO.7956

CRL OP.19184/2020

Date :07/12/2020

TA-08/12/2020



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