

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2020

CORAM

THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.O.P.No. 18800 of 2020

Sarankumar

... Petitioner/6th Accused

Vs.

The State represented by,
The Inspector of Police,
Anti Trafficking Cell,
CBCID, Egmore.

Crime No. 3 of 2020 ... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 3 of 2020, on the file of the respondent police.

For Petitioner : Mr.Nandakumar
for M/s.Eswar, Kumar and Rao

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

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 27.08.2020 for the offences punishable under Sections 5(1), 5(j)(ii), 6 of POCSO Act 2012, Section 370 of IPC and 3(1), 4(1) of Immoral Traffic Prevention Act, 1956 in Crime No. 03 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz., Soundharya is that the victim minor girl xxx aged 17 years was subjected to repetitive penetrative sexual assault by several persons. Originally a case was registered by Railway Police, Mettupalayam and thereafter, the case was transferred to the file of the respondent police. The petitioner is arrayed as A6 in this case and he was arrested on 27.08.2020.

3.The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that though the case is stated to be a case of gang rape, the petitioner is not one of the accused who had indulged in the gang rape of the victim. He would submit that subsequently, the statement of the victim was recorded under Section 164 of Cr.P.C by the learned Additional Mahila Judge, Coimbatore and in that statement, the victim has not stated anything against the petitioner. He would submit that the petitioner was arrested on 27.08.2020 and that he is in custody for the past 96 days. He would submit that there is no allegation of forcible rape or subjecting the victim to gang rape and that the main accused in this case have been granted statutory bail. He would further submit that the co-accused in this case has been enlarged on bail in CrI.O.P.No.17229 of 2020, dated 18.11.2020. Hence, he prays to grant bail to the petitioner.

4.The learned Government Advocate (CrI.Side) appearing for the respondent would oppose that the victim girl had left her home and gone to Ooty and during such time, she was subjected to penetrative sexual assault by the other accused. He would further submit that the statement under Section 164 of Cr.P.C has been recorded from the victim girl, where, she had not spoken anything about the petitioner and that medical examination of the victim as well as the petitioner has also been completed.

5.Heard both the learned counsels and perused the materials placed on record including statement recorded from the victim girl under Section 164 of Cr.P.C.

6.Taking into consideration of the facts and submissions made by the learned counsels, considering the statement under Section 164 Cr.P.C recorded from the victim girl and the petitioner is in judicial custody from 27.08.2020, 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 Metropolitan Magistrate No-14, Egmore, Chennai 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 shall report before 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 abscond, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
01/12/2020

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.

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TO

1 THE METROPOLITAN MAGISTRATE NO.XIV,
EGMORE.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

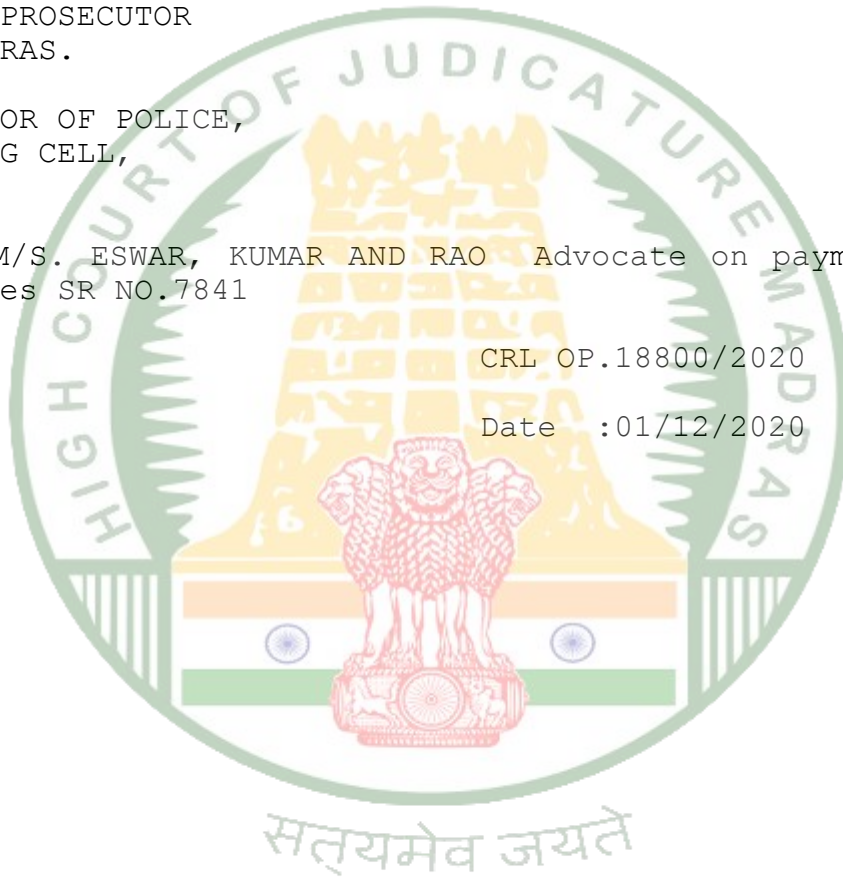
5 THE INSPECTOR OF POLICE,
ANTI TRAFFICKING CELL,
CBCID, EGMORE.

+1CC to M/S. ESWAR, KUMAR AND RAO Advocate on payment of
necessary charges SR NO.7841

CRL OP.18800/2020

Date :01/12/2020

MK:03/12/2020



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