

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 16.12.2020

CORAM :

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

CRL.O.P.No.19413 of 2020

Ajithkumar

... Petitioner

Vs.

State rep. by,
Inspector of Police,
Harithuvaramangalam Police Station,
Tiruvarur District.
(Crime No.424 of 2020)

... Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.424 of 2020 on the file of the respondent police.

For Petitioner : Mr.N.Palanivel

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 22.10.2020 for the offence punishable under Section 366 (A) of IPC @ Section 366(A) of IPC and Section 6, 5(1) of POCSO Act, in Crime No.424 of 2020, seeks bail.

2. The case of the prosecution as per the de facto complainant Pakkirisamy is that the accused kidnapped his minor daughter on 21.10.2020. Based on the complaint, originally the case was registered under Section 366A of IPC. During the course of investigation, it came to light that the accused had kidnapped his minor daughter and committed penetrative sexual assault on her and thereafter, the case was altered into one under Section 366A of IPC and Sections 6, 5(1) of POCSO Act. The petitioner was arrested on 22.10.2020.

3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would submit that the petitioner was having love affair with the victim girl, when it came to the knowledge of the de facto complainant, he was making arrangements to get her marriage to someone against her choice and thereby, the victim girl eloped from the house and joined the petitioner, and thereafter, the father of the victim had given a complaint and that the petitioner, coming to know of the registration of case, he surrendered before the respondent on the next day and the victim was also handed over to the de facto complainant. He would submit that the petitioner, being a young boy, who is unaware of the rigors and consequences of POCSO Act, committed the offence. He would submit that the medical examination in respect of the petitioner and the victim was over and that the petitioner understands that the medical evidence does not show that the victim girl was sexually abused. He would submit that the victim had also stated that she had eloped from the house and joined the petitioner on her own volition. He would submit that the petitioner is in custody from 22.10.2020 and hence, he prays for the grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioner kidnapped the minor daughter of the de facto complainant and thereafter, committed penetrative sexual assault on her. He would submit that as per the medical evidence, no external injuries were found on the victim girl and that the statement under Section 164 Cr.P.C has been recorded from the victim, wherein, she had stated that she had gone along with the petitioner on her own volition.

5. Heard the learned counsel on either side. Perused the materials available on record including the statement recorded under Section 164 Cr.P.C of the victim and the medical certificates.

6. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and also considering 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 Sessions Judge, Fast Track Mahila Court, Tiruvarur, 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 the priosn, shall report before the respondent Police everyday at 10.30 a.m. for a period of two weeks and thereafter, every Monday 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 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

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

WEB COPY

TO

1 THE SESSIONS JUDGE,
FAST TRACK MAHILA COURT,
TIRUVARUR.

2 THE JAILER,
SUB JAIL, MANNARGUDI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

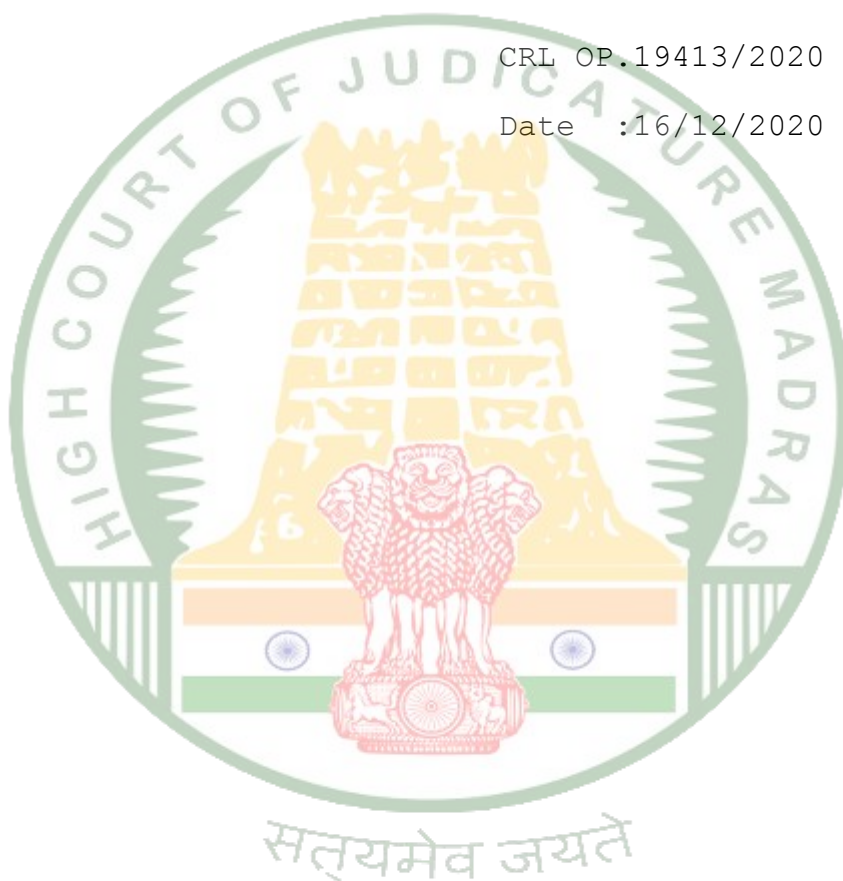
4 THE INSPECTOR OF POLICE,
HARITHUVARAMANGALAM POLICE STATION,
TIRUVARUR DISTRICT.

CC to M/S.N.PALANIVEL Advocate on payment of necessary charges

CRL OP.19413/2020

Date :16/12/2020

cs 17/12/2020



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