

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 11.12.2020

CORAM :

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

CRL.O.P.No.19545 of 2020

1. Parasuraman

2. Rani

... Petitioners

Vs.

State by

The Inspector of Police
All Women Police Station,
Tiruvannamalai,
Tiruvannamalai District.
(Crime No.19 of 2020)

... Respondent

Common Prayer: Criminal Original Petition is filed under Section 439 of Cr.P.C, to enlarge the petitioner on bail in Crime No.19 of 2020 on the file of the respondent police.

For Petitioners : Mr.M.Rebecca

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 11.11.2020 for the offence punishable under Sections 354(D), 376, 451 and 506(i) IPC r/w Section 5(j) (ii), 5(i) and 6 of POCSO Act, 2012 in Crime No.19 of 2020, seeks bail.

2. The case of the prosecution as per the *de facto* complainant Divya is that she has completed XII standard and that on 26.07.2020 at about 12.00 noon when she was at home, one Parthiban committed rape on her under threat and thereafter, again on 06.08.2020, when she was at home, said Parthiban committed rape on her and threatened her not to inform to anybody. While so, on 21.09.2020 since she was having stomach

pain, she went to a hospital, where the Doctor found that she was pregnant. Thereafter, on 23.09.2020, the *de facto* complainant along with her relatives, had gone to the house of the said Parthiban and at that time, the parents of the said Parthiban/petitioners herein had threatened her saying that she should abort the child and if not, she will be done to death.

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 petitioners are the parents of the first accused Parthiban. He would submit that the petitioners later came to understand that there was a love affair between the said Parthiban and the *de facto* complainant and there was also consensual relationship between them, due to which, the *de facto* complainant had become pregnant. He would submit that the affair between their son and the victim was without their knowledge, for which, they cannot be held responsible. He would submit that the victim is still minor and that the petitioners cannot be compelled to perform the marriage. He would submit that the petitioners were arrested on 12.11.2020 and they are in custody for more than a month and hence, he prays for grant of bail to the petitioners.

4. The learned Government Advocate (Crl. Side) appearing for the respondent police would vehemently oppose stating that the petitioners are the parents of the main accused one Parthiban and that Parthiban had raped the victim girl, due to which, she became pregnant. He would submit that when the *de facto* complainant and her parents had gone to the house of Parthiban, the petitioners have threatened them.

5. Heard the learned counsel on either side and also perused the FIR and 164 statement recorded from the victim girl.

6. Taking into consideration the facts and circumstances of the case and the submissions of the learned Counsels and the fact that the petitioners are the parents of the main accused and also considering the period of incarceration suffered by the petitioners, this Court is inclined to grant bail to the petitioners subject to the following conditions:

(a) Accordingly, the petitioners are ordered to be released on bail on condition to execute a separate 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, Special Court for Exclusive Trial of cases under POCSO Act, Tiruvannamalai 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 petitioners shall report before the respondent police everyday at 10.30 a.m. until further orders;

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

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

(f) the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

सत्यमेव जयते

-sd/-

11/12/2020

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 SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, TIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE SUPERINTENDENT,
CENTRAL WOMEN PRISON,
VELLORE.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

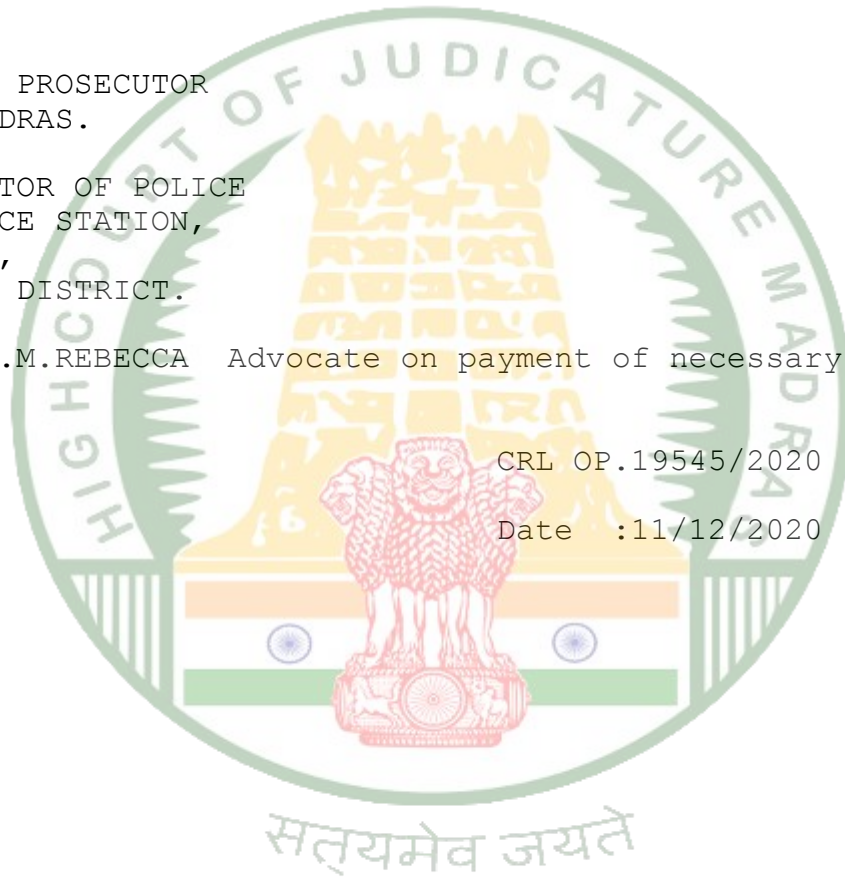
5 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
TIRUVANNAMALAI,
TIRUVANNAMALAI DISTRICT.

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

CRL OP.19545/2020

Date :11/12/2020

MK:14/12/2020



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