

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 14.12.2020

CORAM :

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

CRL.O.P.No.19828 of 2020

Vallarasu

... Petitioner

Vs.

The State Rep. By
Inspector of Police,
Veraiyur Police Station,
Veraiyur
Tiruvannamalai District
(Crime No.2632 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.2632 of 2020 on the file of the respondent.

For Petitioner : Mr.B.Jawahar

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

O R D E R

(The cases have been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 21.10.2020 for the offences punishable under Section 366 (A) @ 366(A), 363 IPC and Section 12 of POCSO Act, 2012, in Crime No.2632 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Arumugam is that the petitioner had kidnapped his minor daughter and sexually harassed her.

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 further submit that the petitioner and the victim girl were friendly with each other and that the petitioner had taken the victim girl in his motor cycle to Chennai with her willingness, however, the father of the victim girl suspected that the petitioner had kidnapped the victim girl, given a complaint before the respondent police. When the petitioner came to know about the registration of the case, he along with the victim girl surrendered before the respondent police

and thereafter, the petitioner was arrested and remanded to judicial custody. He would further submit that the petitioner is a young person of 21 years, and that without understanding the rigors and consequences of POCSO Act, had taken the victim girl in his motor cycle to Chennai. He would further submit that when the victim girl was in the custody of the petitioner, he had not committed any sexual assault or sexually abused the victim girl. He would further state that the petitioner understands that the medical examination has been conducted wherein there is no evidence of sexual assault on the victim girl and it was also stated in the medical examination that the victim girl was not subjected to any sexual assault or harassment by the petitioner. Further, the statement of victim girl has also been recorded under Section 164 Cr.P.C., wherein, she has not alleged anything against the petitioner. He would further submit that the petitioner is in judicial custody from 21.10.2020.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner had kidnapped the minor daughter of the defacto complainant and taken her in his motor cycle, however, he would submit that the medical examination reveals no evidence of sexual assault on the victim and the statement recorded from the victim girl under Section 164 Cr.P.C. also does not speak about the sexual assault on her. He would further submit that the investigation is pending.

5.Heard the learned Counsel on either side. Perused the other materials placed on record, including A.R. copy in respect of the victim girl.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioner from 21.10.2020, 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 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 petitioner on his release from prison shall stay at Chennai and report before the North Beach Police Station 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 absconds, a fresh FIR can be registered under Section 229A IPC.

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

-sd/-
14/12/2020

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
VERAIYUR POLICE STATION,
VERAIYUR,
TIRUVANNAMALAI DISTRICT.

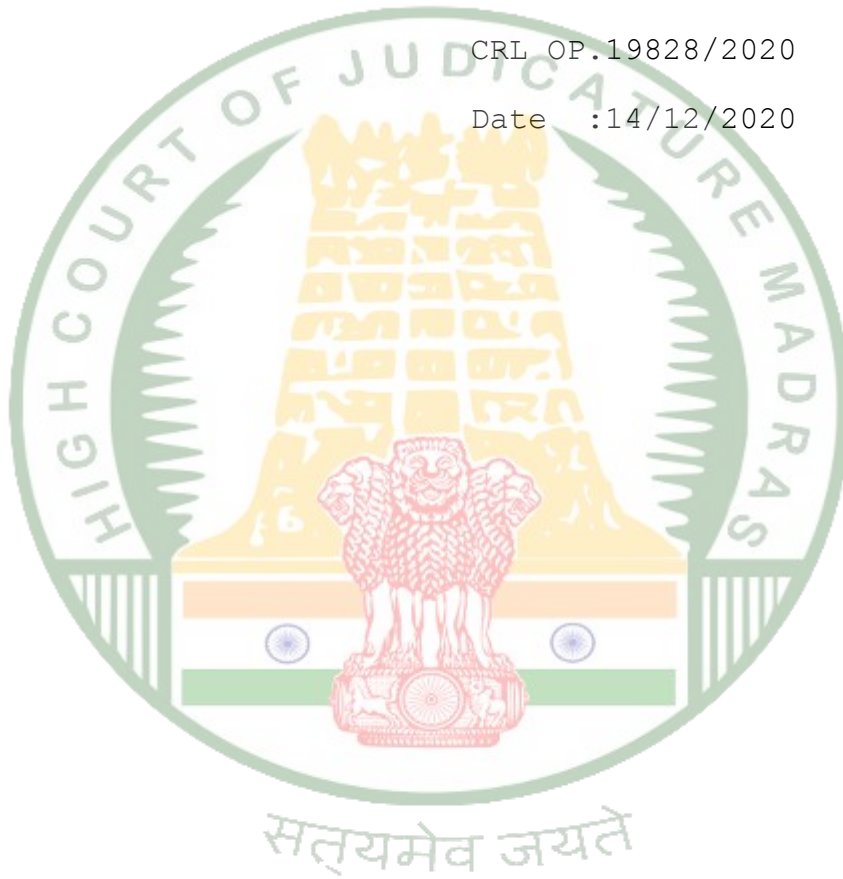
5 THE OFFICER INCHARGE,
NORTH BEACH POLICE STATION,
CHENNAI

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

CRL OP.19828/2020

Date :14/12/2020

MK:15/12/2020



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