

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3088 of 2021

Parthiban

... Petitioner

Vs.

State by

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

.... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.19 of 2020 on the file of respondent police.

For Petitioner : M/s.M.Rebecca

For Respondent : Mrs.M. Prabavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 24.09.2020 for the offence punishable under Sections 354(D), 451, 376 and 506(1) of I.P.C. and Sec.5(j) (ii), 5(i) r/w Sec.6 of POCSO Act, 2012 @ 354 (D), 450, 376(2)(n), 506(i) (2 counts) of I.P.C. and Sec.11 (iv) r/w 12 5(I), 5 (j) (ii) r/w Sec. 6 of POCSO Act, 2012, in Crime No.19 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner is the neighbour of defacto complainant, and the victim is a minor aged about 17 years. On 26.07.2020 the petitioner has trespassed into her house and sexually assaulted the victim, and, she got pregnant, now, it is stated that she gave birth to a child. Hence, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 24.09.2020. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that the petitioner and the defacto complainant are neighbours and in fact, the petitioner was in love with the victim girl and he wanted to marry her. She would submit that since the victim girl is a minor, he could not get her married. Now, based on the complaint given by her parents, the criminal case has been

registered against the petitioner. He would submit that even today, he is willing to marry the victim girl and since she was a minor, he was not in a position to marry her. She would also submit that the petitioner as well as his parents have also filed an undertaking affidavit stating that after she attains majority, the petitioner will marry her. She would submit that he is an innocent person and he is no way connected with the offence as alleged in the complaint. She would submit that he has been falsely implicated in the present case. Hence, she prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would oppose the petition on the ground that the petitioner has sexually assaulted a minor girl, aged about 17 years and now she also gave birth to a child. She would submit that the D.N.A. Test report also shows that the petitioner is the biological father of the child and now the child is with the mother. She would submit that the final report has been filed and the matter is taken cognizance and the same is pending in Spl. S.C.No.121 of 2020 on the file of the Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Tiruvannamalai. She would also submit that there is no previous case pending against the petitioner and opposed to grant bail to the petitioner.

5. I have heard and considered the rival submissions made by the learned counsel appearing for petitioner as well as learned Addl. Public Prosecutor appearing for respondent.

6. Taking into consideration of the fact that, the investigation is over, the matter is taken cognizance and the same is pending for trial, now the other arrested co-accused also released on bail, and also considering the period of incarceration suffered by the petitioner for nearly five months, 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, Special Court for Exclusive Trial of cases under POCSO Act at 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 report before the trial court viz., Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act at Tiruvannamalai on all bearing dates without fail 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/-
23/02/2021

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.

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TO

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

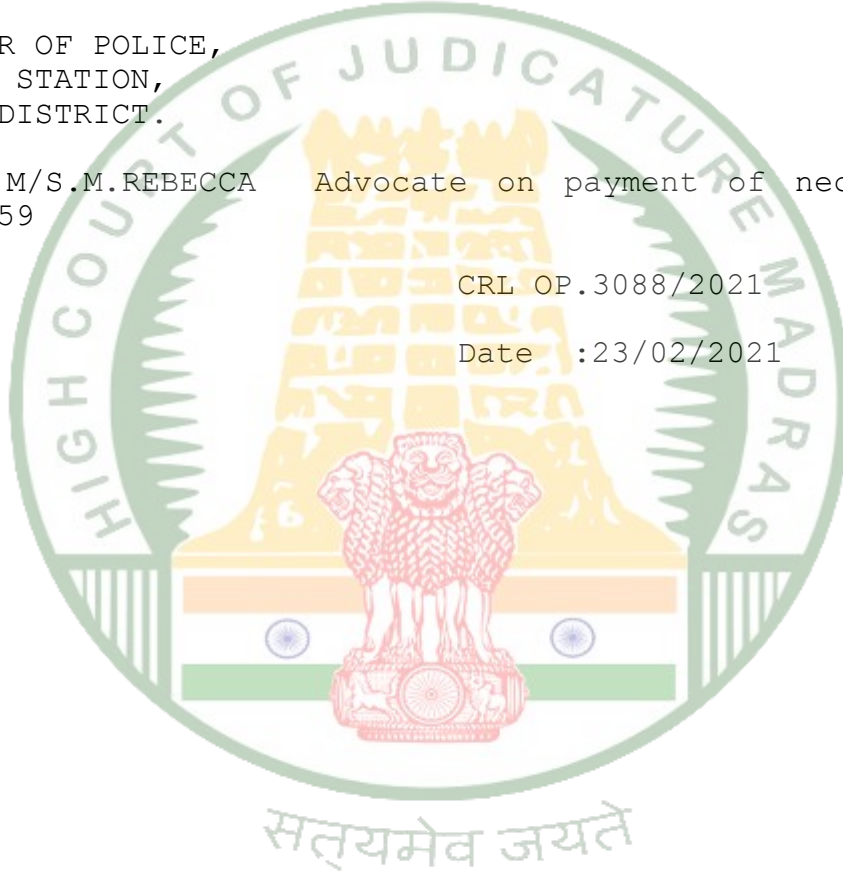
4 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUVANNAMALAI DISTRICT.

+1CC to M/S.M.REBECCA Advocate on payment of necessary
charges SR NO.2159

CRL OP.3088/2021

Date :23/02/2021

MK:24/02/2021



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