

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.3356 of 2021

Arivazhagan

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
Orathur Police Station,
Cuddalore District.
Crime No.744 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.744of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr. D.Dayalan

For Respondent : Mrs.M. Prabhavathi,
APP

ORDER

(The case has been heard through video conference)

The Petitioner, who was arrested and remanded to judicial custody on 07.12.2020 for the offence punishable under Sections 366(A), 376, of IPC and Section 3 r/w. 4 of Protection of Children from sexual offences Act 2012 and Section 9 of the Child Marriage Restraint Act 1929 in Crime No.744 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner, who is a married man, has kidnapped the minor girl, aged about 14 years, with an intention to marry her. Hence, a case has been registered against the petitioner.

3. The counsel for the petitioner would submit that the petitioner has been falsely implicated in this case. He would further submit that the petitioner was arrested and remanded to judicial custody on 07.12.2020. The petitioner is in custody for more than 90 days and final report has not been filed till date. In the said circumstances, the

petitioner is entitled for statutory bail under Section 167(2) Cr.P.C.

Hence, he prays for grant of bail.

4.The learned Additional Public Prosecutor would submit that as the offences against the petitioner are serious in nature and major part of investigation is over and final report alone is yet to be filed. Hence, she oppose to grant bail to the petitioner.

5. The case has been registered under Section POCSO Act. The petitioner is in judicial custody for more than 90 days. Despite the lapse of statutory period, the respondent has not filed the final report and thereby, the petitioner is entitled for statutory bail.

6. Taking into consideration of the facts and circumstance of the case and the submissions made by the learned counsel and the fact that the respondent has not filed the final report in this case despite the lapse of statutory period, this Court is left with no other option except to grant bail. Hence, 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 Special Court for Exclusive Trial of Cases under POCSO Act, Cuddalore District, 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 the respondent police daily at 10.30 a.m., for a period of two weeks, and thereafter, as and when required for interrogation;

(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.

09.03.2021

mrp

To

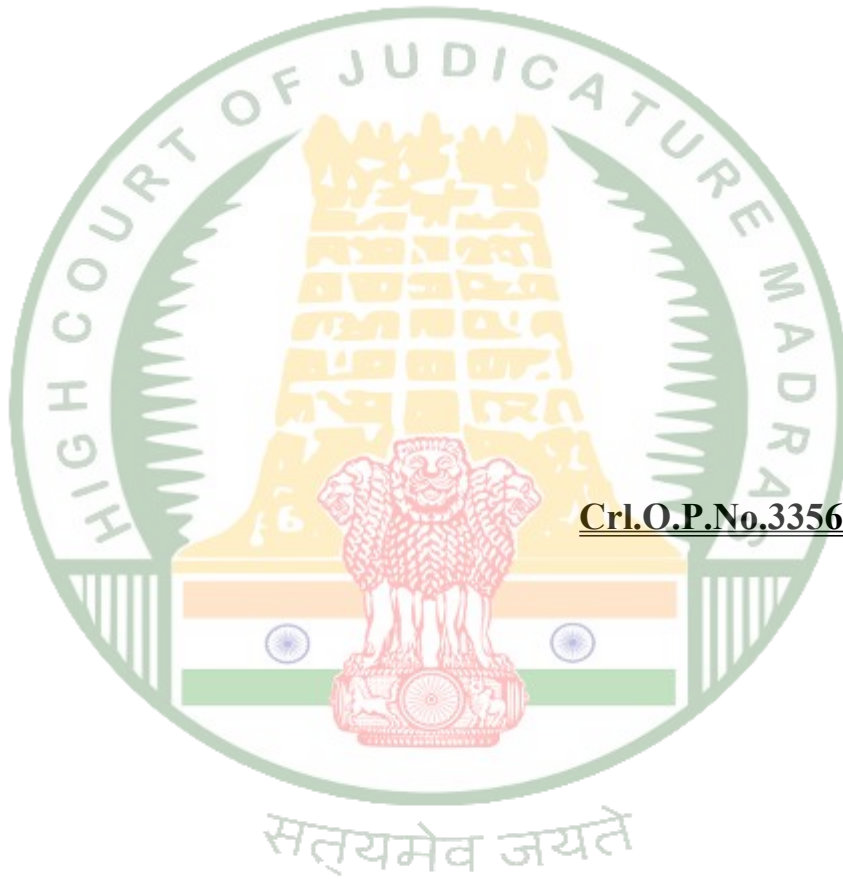
1. The Special Court for Exclusive Trial of Cases under POCSO Act,
Cuddalore District,
2. The Inspector of Police,
Orathur Police Station,
Cuddalore District.
3. The Superintendent,
Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras,
Chennai.77

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V.BHARATHIDASAN , J.

mrp



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