

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.10.2020

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 14898 of 2020

V.S.Deenadayalan

... Petitioner/Sole Accused

Vs.

The State represented by, ... Respondent/Complainant

The Inspector of Police,

W-10, All Women Police Station,

Flower Bazar, Chennai.

(Crime No. 4 of 2020)

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 4 of 2020, on the file of the respondent police.

For Petitioner : Mr.A.Manojkumar

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 17.08.2020 for the offences punishable under Sections 10 & 9(m) of POCSO Act, in Crime No. 4 of 2020 on the file of the respondent police, seeks bail.

2 The case of the prosecution as per the defacto complainant viz., Meena, is that she has engaged in the business of making Samosa and that she is a native of Uttar Pradesh and she is living in Chennai for the past 20 years and her third minor daughter/victim girl, who is aged about 10 years, is studying 4th standard. Further allegation is that on 17.08.2020, the petitioner/accused, who is known to her, had taken her minor daughter to a secluded place and sexually abused her. Hence, the complaint.

3 The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the petitioner and the defacto complainant are known to each other since they are in the business of selling Samosas and that there was a

money dispute between them and thereby, a false complaint has been given by the defacto complainant against the petitioner as if the petitioner has sexually abused her minor daughter. He would submit that even as per the averments in the complaint, there is no allegation of penetrative sexual assault. He would submit that the statement under Section 164 Cr.P.C., has been recorded from the victim girl and wherein, victim girl has not stated as if the petitioner had committed any penetrative sexual assault on her. Hence, he prays to grant bail to the petitioner.

4 The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner, who is known to the defacto complainant, had come to the house of the defacto complainant and had taken the minor daughter of the defacto complainant to a secluded place and where, he had exposed his private part and had touched and hugged the victim girl inappropriately. He would submit that the statement from the victim girl has been recorded under Section 164 Cr.P.C., wherein, she has stated that the petitioner had touched and hugged her inappropriately and had also exposed his private part. He would also submit that the victim girl had been subjected to medical examination and that even as per the complaint and medical reports, there is no penetrative sexual assault. He would further submit that the investigation is pending. Hence, he opposed to grant bail to the petitioner.

5 Heard both the learned counsels and perused the statement recorded under Section 164 Cr.P.C.

6 Taking into consideration the facts and submissions made by the leaned counsel and considering the period of incarceration by the petitioner from 17.08.2020 and also considering the statement recorded from the victim girl under Section 164 Cr.P.C, 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 at Chennai 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 shall stay at Villupuram and report before Villupuram Town Police Station every day at 10.30 a.m., until further orders and the petitioner shall not enter into the jurisdictional limits of the respondent police station.

(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;

(h) 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];

(i) 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/-

09/10/2020

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 SPECIAL COURT FOR EXCLUSIVE TRIAL OF
CASES UNDER POCSO ACT AT CHENNAI.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W-10, ALL WOMEN POLICE STATION,
FLOWER BAZAR, CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

5 THE OFFICER INCHARGE,
VILLUPURAM TOWN POLICE STATION,
VILLUPURAM.

+1 CC to M/S.A.MANOJKUMAR Advocate on payment of necessary
charges SR.NO.6773

CRL OP.14898/2020

Date :09/10/2020