

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 04.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.4264 of 2021

Tim Elliot

... Petitioner

Vs.

State Rep. by

... Respondent

The Inspector of Police,
W-8, All Women Police Station,
Tirumangalam, Chennai.
(Crime No.23 of 2020)

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.23 of 2020 on the file of respondent police.

For Petitioner : Mr.Praveen Alexander

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

ORDER

(The case has been heard through video conference)

The petitioner, who was arrested and remanded to judicial custody on 09.01.2021 for the offence punishable under Sections 498 (A) of I.P.C. and Sections 10 r/w 9(n) of the POCSO Act, 2012, in Crime No.23 of 2020, seeks bail.

2. The case of the prosecution is that the defacto complainant is the wife of petitioner. The petitioner has harassed the defacto complainant and also misbehaved with the children. That apart, he was also having intimacy with several ladies. The petitioner has taken videos of some intimate moment his child using a hidden camera and using the same, he has threatened the defacto complainant. Hence, they were separated from each other. In the said circumstances, a criminal case has been registered against the petitioner and he was arrested and remanded to judicial custody on 09.01.2021. Now, this petition has been filed seeking for bail.

3. The learned counsel appearing for petitioner would submit that there is a prolonged quarrel between the petitioner and the defacto complainant due to the adulterous acts committed by her and

she is having intimacy with several men. Now, she is falsely alleging that the petitioner has misbehaved with the petitioner's daughter in the month of September 2019 and he has also taken some videos in a hidden camera. Those allegations are made only to harass the petitioner. Now, even after she left the matrimonial home, she is taking steps for settlement and also demanding maintenance. It is stated that now both are separated from each other and she is regularly sending messages to the petitioner and the petitioner has also filed some messages in the typed set of papers. He would submit that the petitioner is in jail for more than two months and the investigation is almost completed. Hence, he prayed to grant bail to the petitioner.

5. The learned Additional Public Prosecutor appearing for the respondent would oppose this petition on the ground that the petitioner not only misbehaved with the defacto complainant and with his own daughter. The statement of daughter was recorded under Sec.164 of Cr.P.C., stating that the petitioner has misbehaved with his daughter and he is trying to sexually assault her. Hence, the crime registered under Sections 10 r/w 9(n) of POCSO Act, also against the petitioner and he was arrested on 18.12.2020. She would submit that the investigation is almost completed. However, she opposed to grant bail to the petitioner.

6. Now, on perusal of records and also perusal of statement of defacto complainant and her daughter, which would reveal that there is a serious matrimonial dispute between the parties for a long time. Now, the allegation is that the petitioner has misbehaved with his daughter in the month of September 2019. That apart, the petitioner has also said to have illegal intimacy with several women.

7. The allegations made against the petitioner are serious in nature. However, taking into consideration of the fact that, the investigation is almost completed and he is in jail from 09.01.2021, now, it is stated that the reconciliation proceedings is also going on between the parties. Therefore, 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 XV Metropolitan Magistrate, George Town, 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, after his release from prison, report before the respondent police daily 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.

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

-sd/-
04/03/2021

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 XV METROPOLITAN MAGISTRATE,
GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-8, ALL WOMEN POLICE STATION,
TIRUMANGALAM, CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

+1 CC to M/S. PRAVEEN ALEXANDER Advocate on payment of
necessary charges SR.NO.2741

CRL OP.4264/2021

Date :04/03/2021

TA-05/03/2021



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