

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 22.03.2021

CORAM :

THE HON'BLE MR. JUSTICE V. BHARATHIDASAN

Cr1.O.P.No.5620 of 2021

Arunkumar Sharma @ Jaggu Sharma

... Petitioner

Vs.

State rep by
The Sub-Inspector of Police,
Oragadam Police Station,
Kancheepuram District.
(Crime No.1724 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.1724 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mrs.M.Prabhavathi
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 16.02.2021 for the offence punishable under Sections 67A and 67B of IT Act and Section 15 of POCSO Act 2012, in Crime No.1724 of 2020, seeks bail.

2. The case of the prosecution is that the petitioner is said to have downloaded the child pornographic from various website and created a fake face book account and uploaded the same to various persons. It was traced by the National Crime Bureau, and the same was forwarded to the Additional Superintendent of Police, Kancheepuram, and same was forwarded to the respondent police and the crime has been registered and the petitioner was arrested and remanded to judicial custody on 16.02.2021.

3. The learned counsel appearing for the petitioner would submit that the petitioner was arrested on 16.02.2021 and the petitioner is an innocent person and the main allegation is that he had forwarded

same child pornographic videos. The above said face book account not belongs to the petitioner and he has been falsely implicated in this case and he is in judicial custody from 16.02.2021. Hence, he seeks bail to the petitioner.

4.The learned Additional Public Prosecutor would submit that the petitioner only downloaded the Child pornographic photos and thereafter he uploaded the same, creating a fake face book account. Based of the complaint given by the Additional Superintendent of Police, the crime has been registered. She would further submit that the investigation is pending. Hence, she vehemently opposed for grant of bail to the petitioner.

5. Considered the rival submissions made on either side.

6. On perusal of the FIR, it is seen that the petitioner is said to have down loaded the child pornographic, thereafter he uploaded the same and after creating a fake face book. Taking into consideration the above facts and circumstances of the case and also taking note of the fact that the petitioner is in jail from 16.02.2021, 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 Session Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Chengalpattu 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 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.

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

-sd/-
22/03/2021

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 SESSION JUDGE,
SPECIAL COURT OF EXCLUSIVE TRIAL OF CASES
UNDER POSCO ACT, CHENGALPATTU.

2 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

3 THE SUB INSPECTOR OF POLICE,
ORAGADAM POLICE STATION,
KANCHEEPURAM DISTRICT.

4 THE SUPERINTENDENT,
CENTRAL PRISON, CHENNAI.

+1 CC to M/S.R.SASIKUMAR Advocate on payment of necessary charges
SR.NO.3800.

CRL OP.5620/2021

Date :22/03/2021

EP-23/03/2021

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