

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.10293 of 2021

S.Syed Aslam

... Petitioner

Vs.

State Rep. by

The Inspector of Police,
W-23, All Women Police Station,
Royapettah, Chennai.
(Crime No.2 of 2021)

.... Respondent

Prayer:

Petition filed under Section 439 of Cr.P.C., seeking to enlarge the petitioner on bail pending investigation in Crime No.2 of 2021 on the file of the respondent.

For Petitioner : Mr.M.Shahjahan

For Respondent : Mr.A.Gopinath
Government Advocate (CrI. Side)

ORDER

The petitioner who was arrested on 20.01.2021 and remanded to judicial custody for the offence under Sections 9(i), 9(n) and 10 of the Prohibition of Child from Sexual Offence Act (POCSO) and later altered into Section 5(1)(n), 6, 10, 12 of the Act and Section 67(a) of Information Technology Act in Cr.No.2 of 2021 on the file of the respondent police, seeks bail.

2.It is the case of the prosecution that the petitioner is alleged to have sexually mis-behaved with the defacto complainant's daughter.

3.The learned counsel appearing for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and that he has been falsely implicated in the case. He further submitted that there is contradictory statement inbetween the

FIR and Statement of the victim recorded under Section 164 of Cr.P.C. and further submitted that in the FIR it is stated that the petitioner has sent message to the victim on 27.08.2020, whereas, in the Statement of the victim recorded under Section 164 of Cr.P.C., it is stated that the victim herself sent message to the petitioner on 23.08.2020. He further submitted that there was money transaction inbetween the petitioner and the defacto complainant and that the petitioner has helped the defacto complainant in many ways since she is his wife's sister, however, when demanded the money given to her, she has lodged the complaint in order to wreck vengeance.

4. Heard the submissions made by the learned Government Advocate (Crl. Side).

5. This Court perused the FIR and Statement of the victim recorded under Section 164 of Cr.P.C. As stated by the learned counsel appearing for the petitioner, there are contradictory statements. Hence, considering the period of incarceration undergone by the petitioner, I am inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) before the Superintendent of Central Prison, Puzhal, Chennai, in which the petitioner is confined and on such execution the petitioner shall be released from prison;

(b) within a period of four weeks after the release, the petitioner shall 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 Learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai;

(c) in case of any difficulty in executing the said bond along with the sureties before the concerned Magistrate within the time stipulated above, the petitioner is permitted to file appropriate petition within a period of four weeks therefrom before the concerned Magistrate for extension of time for executing the bond along with sureties and if any such application is filed, the concerned Magistrate shall decide on the grant of extension of time for accepting the bond and sureties in accordance with law. Failing filing of any such application within the time prescribed above, the bail granted by this Court would stand automatically vacated;

(d) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(e)the petitioner shall report before the respondent police, daily at 10.30 a.m. until further orders;

(f)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g)the petitioner shall not abscond either during investigation or trial;

(h)on breach of any of the aforesaid conditions, the learned 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]; and;

(i)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-

21/06/2021

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

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI.

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-23, ALL WOMEN POLICE STATION,
ROYAPETTAH, CHENNAI.

CC to M/S. M.SHAHJAHAN Advocate on payment of necessary charges

CRL OP.10293/2021

Date :21/06/2021

cs 22/06/2021