

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No.11906 of 2021

Nasar Sharif

... Petitioner

Vs.

The State Represent by
The Inspector of Police,
W-17, All Women Police Station,
Peravallore, Chennai.
Cr.No.3/2021

... Respondent

PRAYER: Criminal Original petition has been filed under Section 439 of Cr.P.C, prayed to enlarge the petitioner on bail in connection with the case in Cr.No.3 of 2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.M.Hussaini Basha

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

ORDER

The petitioner, who was arrested on 14.06.2021 and remanded to judicial custody for the offences under Section 10 read with Section 9(1), 9(n) of Protection of Children from Sexual Offences Act, 2012 in Cr.No.3 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant is the mother of the victim girl, who is a minor and the accused is the father of the victim girl. The defacto complainant lodged a complaint before the respondent Police alleging that the petitioner misbehaved with her elder daughter. Hence, the petitioner was arrested by the law enforcing agency.

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence and he has been falsely implicated in this case and he further submits that the petitioner is the father of the victim. Due to family dispute between the petitioner and his wife, a false complaint has been registered against the petitioner. Therefore, he has not committed any offence as alleged by the prosecution. Hence prays for grant of bail.

4. The learned Government Advocate (Crl.Side) submitted that the victim girl has been produced before the learned VI Metropolitan Magistrate, Egmore, Chennai and recorded 164 Statement. In which, she stated that the petitioner, who is a father of the girl, misbehaved with her.

5. This Court is of the view that on perusal of the 164 statement, there is no serious allegation made against the petitioner and further considering the period of incarceration suffered by the petitioner and also the present COVID-19 pandemic situation, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the Superintendent, Central Prison, Puzhal 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 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 POCSO Act Cases;.

(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/-

12/07/2021

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

2 VI METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI, CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
W-17 AWPS POLICE STATION, PERAVALLORE,
CHENNAI.

CC to M/S.M.HUSSAINI BASHA
charges Sr.7272

Advocate on payment of necessary

WEB COPY

CRL OP.11906/2021

Date :12/07/2021

RVR 13/07/2021