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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.15178 of 2021

T. Kanagarajan

... Petitioner

Vs.

State:

The Inspector of Police,
W-21 All Women Police Station,
Guindy, Chennai
(Crime No.10 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C, prayed to release the petitioner on bail pending investigation in Crime No.10 of 2021 on the file of the respondent police.

For Petitioner : Mr.V.Jayaprakash Narayanan

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

ORDER

The petitioner who was arrested on 18.06.2021 and remanded to judicial custody for the offences under Section 4 of POCSO Act 2012 (Act 32/2012) in Crime No.10 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl and the petitioner were neighbours and on 20.05.2021 when the victim girl was alone in her house the petitioner sexually assaulted the victim girl. Hence, the complaint.

3. The learned counsel for the petitioner submitted that the petitioner is an innocent person and he is no way connected with the alleged offences and he has been falsely implicated in this case. He further submits that the petitioner has been jail from 18.06.2021. He further submits that the mother of the petitioner has filed an affidavit of undertaking that they are ready and willing to marry the victim girl. Hence he prays for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl.Side) submitted that the victim girl and her family refuses to marry the petitioner. Hence, the learned Government Advocate vehemently opposed for grant bail to the petitioner.

5. This Court perused the 164 statements of the victim girl. It is seen from the statement of the victim girl that the petitioner is a contractor and he had approached the parents of the victim girl for the purpose of marrying the victim girl. Thereafter the petitioner and his parents approached the victim girl for the purpose of marriage . Further the said proposal did not fructify. Subsequently it is alleged that the petitioner sexually assaulted the victim girl.

6. On perusal of the 164 statement it is seen that after the allegation made against the petitioner, the petitioner and his mother has filed an affidavit before this Court agreeing for marrying the victim girl. Further the said proposal was not accepted by the defacto complainant's family.

7. Considering the facts of the case and the fact that the mother of the petitioner has filed an affidavit of undertaking that they are ready and willing to marry the victim girl and also considering the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail on his executing 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, Chengalpattu , and on further condition that:

(a) 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;

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

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

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

(e) 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;

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

-sd/-
31/08/2021

This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
CHENGALPATTU.

2 THE INSPECTOR OF POLICE,
W21, ALL WOMEN POLICE STATION,
GUINDY, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S V.JAYAPRAKASH NARAYANAN Advocate on payment of
necessary charges SR.NO. 9289

CRL OP.15178/2021

Date :31/08/2021

INBA 02/09/2021