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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.DHANDAPANI

Cr1.O.P.No.20454 of 2021

Manimaran

... Petitioner

Vs.

The Station House Officer,
Kottuchery Police Station,
Karaikal.

Crime No.90 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 Cr.No.90 of 2021 on the file of the Station House Officer, Kottucherry Police Station, Karaikal.

For Petitioner : Mr.S.P.Vijayaragavan

For Respondent : Mr.V.Balamurugane
Additional Public Prosecutor
For Puducherry

ORDER

The petitioner, who was arrested on 24.08.2021 and remanded to judicial custody for the offences under Section 12 of Prevention of Children from Sexual Offences Act, 2012 in Cr.No.90 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim is a France National and she came to the the defacto complainant house, who is her maternal uncle and he is living in Karaikkal. The petitioner has brother relationship with the victim. The defacto complainant lodged a complaint before the respondent police based on certain whatsapp messages exchanged between the petitioner and the victim. On 2017 onwards, the petitioner used to send obscene messages to the victim and used to abuse her. Hence, the defacto complainant lodged a complaint against the petitioner.



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. The Hence prays for grant of bail.

4. The learned Government Advocate (Crl.Side) submitted that the victim and her mother have been produced before the learned Judicial Magistrate-II, Karaikkal. The statement of 164(5) Cr.P.C has been recorded. This is the second bail application of the petitioner and the petitioner started harassing the victim girl by sending obscene messages from the year 2017 onwards. Hence, he objected to grant bail to the petitioner.

5. This Court is of the view that on perusal of the 164 statement of the victim, there is no serious allegation and sexual allegation made against the petitioner. On perusal of the statement of the victim's mother, it is seen that she has made some allegation against the petitioner. But she has not made any sexual allegation against the petitioner. Considering the period of incarceration suffered by the petitioner and there is no serious allegation made against him in the 164 statement and in view of the change of circumstances, this Court is inclined to grant bail to the petitioner subject to the following conditions:

6. 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, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Special Judge (under POCSO Act) Karaikal 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 is directed to appear before the respondent police daily morning at 10.30 am 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

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-sd/-
12/11/2021

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 JUDGE
(UNDER POCSO ACT), KARAIKAL.

2 THE JUDICIAL MAGISTRATE,
NO.II, KARAIKAL.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PONDICHERRY.

4 THE PUBLIC PROSECUTOR
PUDUCHERRY.

5 THE STATION HOUSE OFFICER
KOTTUCHERY POLICE STATION, KARAIKAL.

+1 CC to M/S.S.P.VIJAYARAGAVAN Advocate on payment of necessary charges SR.NO.12736

CRL OP.20454/2021

Date :12/11/2021

RW 12/11/2021