



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.02.2021

CORAM :

THE HON'BLE MR. JUSTICE V.BHARATHIDASAN

Crl.O.P.No.20830 of 2020

Bhakthavatchalam

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
W-18, MKB Nagar All Women
Police Station,
Chennai-600 039.
(Crime No.7 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.7 of 2020 pending investigation on the file of the Respondent.

For Petitioner : Mr.P.Alexander

For Respondent : Mrs.M. Prabhavathi,
Addl. Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner is a sole accused. He was arrested and remanded to judicial custody on 24.11.2020 for the offence punishable under Sections 9(m), 9(n), 10 of POCSO Act, 2012 and Section 506(ii) of I.P.C., in Crime No.7 of 2020, and now, he has filed this petition seeking for bail.

2. The case of the prosecution is that the victim girl is a minor, aged about 14 years, and an orphan. She is having a brother and sister. When they were staying with their grandmother, this petitioner, then great grandfather, who is aged about 86 years, in the year 2019, said to have sexually assaulted the victim girl. Thereafter, she was shifted to a children home, wherein, based on the statement of her, the incharge of the home, has given a complaint. Based on her complaint, the criminal case has been registered against the petitioner. Accordingly, he was arrested and remanded to judicial custody on 24.11.2020. Now, the present petition has been filed seeking bail.



3. The learned counsel appearing for the petitioner would submit that the petitioner is a great grandfather of a victim girl and he is aged about 86 years, and when the victim girl along with her family staying at their home during the year 2019, the occurrence said to have taken place and thereafter, they were shifted to a home. He would submit that a false complaint said to have been given by a victim girl that she was sexually assaulted in the year 2019. He would submit that he is an innocent person and he has not committed any offence as alleged by the prosecution. He would submit that he has been falsely implicated in this case and he is in jail for more than two months and now, the investigation is almost completed. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner is an age old man, and he is a great grandfather of victim girl. She would submit that the petitioner has sexually assaulted the victim girl. Hence, he was arrested and the investigation is also completed. However, she vehemently opposed to grant bail to the petitioner.

5. Taking into consideration of the fact that the occurrence took place in the year 2019, the complaint was given in the year 2020, the petitioner is aged 86 years old and also considering the fact that the petitioner is in judicial custody from 24.11.2020, this Court is inclined to grant bail to the petitioner in subject to the following conditions:

(a) 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 POCSO Cases, Chennai, 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. for the period of two weeks;

(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/-
02/02/2021

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 POCSO CASES,
CHENNAI.

2 THE HON'BLE POCSO COMMITTEE,
HIGH COURT, MADRAS.

3 THE OFFICER INCHARGE
SUB-JAIL, SAIDAPET, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
W-18 MKB NAGAR ALL WOMEN POLICE STATION,
CHENNAI 600 039.

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

CRL OP.20830/2020

Date :02/02/2021