

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the First day of December Two Thousand Twenty One

PRESENT

The Hon`ble Mr Justice M.DHANDAPANI

CRIMINAL ORIGINAL PETITION No.22511 of 2021

C.N. SIVA SHANKARAN

[PETITIONER / ACCUSED]

Vs

STATE REP BY

[RESPONDENT]

THE DEPUTY COMMISSIONER OF POLICE,
CBCID, OCU-II, KANCHEEPURAM DISTRICT
(CRIME NO.1/2021)

For Petitioner : M/S. S. SATHISH RAJAN Advocate

For Respondent : Mr.S.BALAJI, Government Advocate (Crl. Side)

PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The present petition is filed by the petitioner for enlargement on bail in respect of his arrest and remand to judicial custody in Crime No.1 of 2021 on the file of the respondent for the offences u/s 354, 363, 365 and 366 r/w 109 IPC and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act and also u/s 8, 10, 12 r/w 17 of the of Protection of Children from Sexual Offences Act, 2012.

2. This is the second bail petition filed by the petitioner. The earlier bail petition in Crl. O.P. Nos.13396 and 13404 of 2021 were dismissed by this Court vide order dated 17.08.2021. The petitioner, pleading change of circumstance, has filed the present petition for enlargement on bail.

3. Learned counsel appearing for the petitioner submitted that though this Court, vide a detailed order, had dismissed the earlier bail applications on 17.8.2021, however, on the said date, the case was under investigation, but presently, charge sheet has been filed and in view of the changed circumstance, this Court may consider granting bail to the petitioner. It is the further submission of the learned counsel for the petitioner that in two other similar cases, bail has been granted by the trial court and all the other co-accused have been granted anticipatory bail by this Court. It is the further submission of the learned counsel for the petitioner that the

petitioner is aged more than 70 years and is suffering from very many ailments, including heart ailment and is taking treatment and also been implanted with stents and also suffered paralytic stroke and that the petitioner is also a chronic diabetic and, therefore, for continuous medical treatment, as per Doctor's advice, it is just and necessary that he should be monitored medically and, therefore, prays that he may be enlarged on bail on any stringent condition.

4. On the above contentions, this Court heard the learned Government Advocate (Crl. Side) appearing for the respondent, who vehemently objected to the grant of bail and filed a counter, wherein, inter alia, it is contended that the safety and security of the victims would be greatly jeopardized if the petitioner is enlarged as bail. Similar contentions, as were put forth on the previous occasion, was once again placed before this Court.

5. This Court gave its careful consideration to the submissions advanced by the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent and perused the materials available on record to which this Court's attention was drawn.

6. Even at the very outset, it is to be pointed out that the contentions relating to the medical condition of the petitioner along with all the medical records were tabled before this Court even at the time when the initial bail petitions were considered and this Court, taking into account, all the medical records and also the other materials and also after detailed scrutiny of the statement of the victims recorded u/s 164 Cr.P.C. had denied to enlarge the petitioner on bail for the reason that the safety and security of the victims would be a matter of grave concern if the petitioner is allowed to go out on bail.

7. Apart from the medical records, which this Court has already perused and formed its opinion not to enlarge the petitioner on bail, the only other changed circumstance, which has been pointed out before this Court is the fact that investigation is complete and charge sheet has been filed and that in two other similar cases, the petitioner has been enlarged on bail by the trial court.

8. True it is that charge sheet has been filed, but it is to be pointed out that mere filing of the charge sheet cannot be said to be a changed circumstance necessitating this Court to consider grant of bail to the petitioner. Generally, in cases where charge sheet has been filed by the investigating agency showing completion of investigation, considering the gravity of the offence and the public stature of the accused, the Courts consider release the accused on bail.

9. It is not a norm that in each and every case where charge sheet has been filed, the accused can be released on bail. Grant of bail depends on several factors, including the safety and security of the victim and the the court, while granting bail should also take into account the position of the accused qua the victim especially if the accused is in some position of authority or power and there is prima facie chance of misuse of position and power, including over the victim. In the case on hand, as already pointed out above, the petitioner is a man of means with very many followers following his spiritual path and the psychological effect that the petitioner has on his followers definitely weighs more in the mind of this Court while considering his case for bail. Misuse of power by the petitioner cannot be ruled out as apprehension has been raised by the investigating agency on the said aspect. Such being the case, this Court has to be very circumspect while considering the case of the petitioner for bail.

10. Further, the mere fact that in similar cases the petitioner has been enlarged on bail would not be sufficient to grant bail to the petitioner as the trial court has granted bail to the petitioner in those offences on the set of facts placed before it. A court, higher in hierarchy to this Court, has not granted bail to the petitioner yet and such being the case, placing reliance on the order of the trial court for bail is inconceivable.

11. There being no change of circumstance worth considering, as put forth by the learned counsel for the petitioner, this Court is not inclined to accede to the request of the petitioner for bail as the circumstances put forth are mere repetitions and cannot be said to be a changed scenario, which accrues to the benefit of the petitioner.

12. Accordingly, for the reasons aforesaid, the present petition for bail is devoid of merits and the same is dismissed.

-sd/-

01/12/2021

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 SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

2 THE DEPUTY COMMISSIONER OF POLICE,
CBCID, OCU-II, KANCHEEPURAM DISTRICT

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. S. SATHISH RAJAN Advocate on payment of necessary
charges Sr.14051

CRL OP.22511/2021

Date :01/12/2021

RVR 10/12/2021