



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.21869 of 2021

Elangovan

...Petitioner

Vs.

The State of Tamil Nadu,
Rep. by the Inspector of Police,
W-4, Kilpauk All women Police Station,
Chennai.
Crime No.8 of 2021

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail pending of the case in Sp.S.C.No.156 of 2021 (On the file of learned Special Court for Exclusive Trial of Cases Under POCSO Act, Chennai) connected with Crime No. 8 of 2021 (On the file of the Inspector of Police, W-4, Kilpauk All Women Police Station, Chennai).

For petitioner : Mr.D.Kannan

For Respondent : Mr.N.S.Suganthan
Government Advocate

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 29.07.2021 for the offence under Sections 9(1), m(n) r/w 10 POCSO Act and 498A of IPC, in Crime No.8 of 2021, on the file of the respondent police seeks bail.

2. The case of the prosecution is that the defacto complainant is the wife and the victims are the daughters of the petitioner. The petitioner had sexually assaulted his own daughters who is aged about 13 and 11 years. Further, the petitioner used to come home in a drunken mood and used to beat the defacto complainant and her two daughters. Hence the complaint.



3. The learned Counsel for the petitioner submitted that the petitioner is an innocent and he has been falsely implicated in this case due to family dispute and that the petitioner has been suffering incarceration for more than 110 days from 29.07.2021. He would further submit that the petitioner is getting salary of about Rs.40,000/- p.m. and he is ready to abide any order of maintenance to maintain the family. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate raised objection stating that petitioner is a Grade-I Constable and he is none other than the father of the victim children and the petitioner in a drunken mood used to harass the defacto complainant and also used to sexually assault the children who are studying in 8th and 6th standard.

5. It is seen that the petitioner married the defacto complainant and got two children aged 13 and 11 years and now they are studying in 8th and 6th standard respectively and due to the alleged harassment, now they are forced to take asylum at the maternal parental house. Further, the wife is having no other source of income.

6. Considering the above facts and circumstances of the case and that the investigation is almost completed and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.

7. 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 Judge, Special Court for Exclusive Trial of Cases Under POCSO Act at Chennai and on further conditions 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 on every Wednesday and Sunday at 10.30 a.m. until further orders.

(c) the petitioner is directed to pay a sum of Rs.20,000/- (Rupees Twenty Thousand Only) to the defacto complainant through her bank account bearing A/c.No: 6180000100013462, IFSC:PUNB0618000 as monthly maintenance on or before 5th of every English Calendar Month until further orders.

(d) Further, since the petitioner has not occupied the police quarters which was allotted him, the defacto complainant and her daughters shall reside in the said quarters and the petitioner shall



not cause any interference in their possession and enjoyment.

(e) the petitioner shall not tamper with evidence or witness during trial;

(f) the petitioner shall not abscond during trial;

(g) 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;

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

8. The Deputy Commissioner of Police, Kilpauk, Chennai, is directed to permit the defacto complainant and her daughters to reside in the police quarters, allotted to the petitioner until further orders.

-sd/-

23/11/2021

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

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
W - 4, KILPAUK
ALL WOMEN POLICE STATION,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON,
PUZHAL, CHENNAI



COPY TO

1 THE DEPUTY COMMISSIONER OF POLICE,
KILPAUK, CHENNAI

2 INDUMATHI (THE DEFACTO COMPLAINANT)
THROUGH RESPONDENT POLICE
(THE INSPECTOR OF POLICE,
W - 4, KILPAUK
ALL WOMEN POLICE STATION,
CHENNAI.)
WITH PROPER ACKNOWLEDGEMENT

+1 CC to D.KANNAN Advocate on payment of necessary charges
SR.No.13237

CRL OP.21869/2021

Date :23/11/2021

APN 25/11/2021