



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2021

CORAM:

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

Crl.O.P.No.22398 of 2021

S.Nandhakumar

...Petitioner

Vs.

The Inspector of Police
AWPS-Ayanavaram
Chennai.
Crime No.7/2021

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to direct the petitioner be released on bail concerned in Crime No.7 of 2021 on the file of the respondent.

For petitioner : M/s.Elizabeth Ravi

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

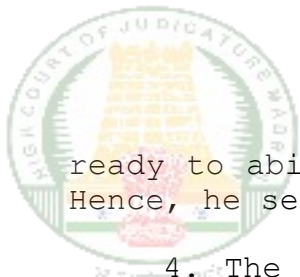
ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 12.08.2021 for the offence under **Section 8 read with 7 of POCSO Act**, in Crime No.7 of 2021, on the file of the respondent police seeks bail.

2. The case of the prosecution is that the petitioner who is the father of the victim child, had committed sexual assault against his own daughter. Hence, the complaint.

3. The learned Counsel for the petitioner submitted that the petitioner is the father of the victim girl and he is working as a Furnishing Technician in ICF and he was the one who was maintaining his family with love and care and due to some misunderstanding between his wife Kalpana and the petitioner, his minor daughter has given a false statement against the petitioner on the instigation of his wife and that the petitioner has not committed any offence as alleged by the prosecution. He would further submit that the petitioner has been suffering incarceration for more than 100 days from 12.08.2021 and would fairly submit that the petitioner is



ready to abide by any condition of paying maintenance to his family. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) raised objection stating that due to the misbehaviour of the petitioner with his daughter, the complaint has been lodged. He would further submit that the statement of the victim child has been recorded under Section 164 Cr.P.C. and the investigation has been completed and the charge sheet has been filed and that the same has been taken on file in S.C.No.185 of 2021.

5. It is seen that the petitioner married the defacto complainant and got two girl children aged 14 and 12 years and now they are studying in 9th and 7th standard respectively and due to the alleged harassment, now they are forced to take asylum at the parental house. Further, the wife is having no other source of income. Hence, this Court is inclined to give some interim maintenance to the family of the petitioner until the dispute is solved between the parties.

6. Further, the investigation has been completed and charge sheet has been filed and the same has been taken on file by the Sessions Court 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 Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, 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 Saturday at 10.30 a.m. until further orders. The petitioner shall also appear before the trial Court on all hearings without fail.

(c) the petitioner is directed to pay a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) to the defacto complainant namely K.Kalpana through her bank account as monthly maintenance on or before 5th of every English Calendar Month until further orders. Further, the petitioner shall also pay the educational expenses of his children until further orders.

(d) the petitioner shall not disturb his wife and children until the dispute is solved.

(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.

-sd/-

26/11/2021

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, CHENNAI,

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
AWPS - AYANAVARAM,
CHENNAI.

4 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

Copy To:

MRS.K.KALPANA / THE DEFACTO COMPLAINTANT.
THE INSPECTOR OF POLICE
AWPS-AYANAVARAM, CHENNAI.

(THROUGH THE RESPONDENT POLICE WITH PROPER ACKNOWLEDGEMENT)

+1 CC to M/S.ELIZABETH RAVI Advocate on payment of necessary charges SR.NO.13539

CRL OP.22398/2021

Date :26/11/2021