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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.12.2021

CORAM:

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

Crl.O.P.No.24322 of 2021

Arunkumar

.. Petitioner

Vs.

The State Represented by
The Inspector of Police,
W-22 All Women Police Station,
Mylapore, Chennai.
(Crime No. 3 of 2021)

...Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.3 of 2021 pending investigation on the file of the Inspector of police W-22, All Women Police Station, Mylapore, Chennai District.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.N.S.Suganthan
Government Advocate (Crl. Side)

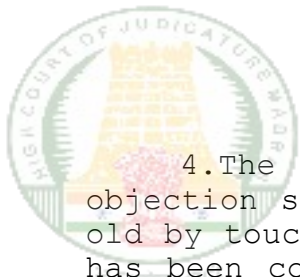
ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 31.07.2021 for the offences under Sections 10 r/w 9(m) of POCSO Act, 2012 in Crime No.3 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner abused a girl who is 11 years old by touching her inappropriately. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. Infact, the petitioner is suffering from mental illness and he has been falsely implicated in this case. In order to substantiate the same, he produced a medical certificate dated 05.03.2019 and would submit that the petitioner has been suffering incarceration for more than 137 days from 31.07.2021. Hence, he would pray for grant of bail to the petitioner.



4. The learned Government Advocate (Crl. Side) would raise objection stating that the petitioner abused a girl who is 11 years old by touching her inappropriately but admits that the investigation has been completed and the charge sheet has been filed and the same has been taken on file. He would further submit that at the time of recording statement from the victim girl under Section 164 Cr.P.C., the girl was not willing to give statement against the petitioner.

5. Considering the facts and circumstances of the case and the fact that the investigation has been completed and the charge sheet has been filed and the same has been taken on file and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain 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, each for a like sum to the satisfaction of the 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) Since, the petitioner is suffering from mental illness, the mother of the petitioner is directed to bring the petitioner to the trial Court proceedings without fail and the petitioner is also advised to take treatment in any of the Government Hospital either Stanley or Kilpauk.

(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 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;



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

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-sd/-
14/12/2021

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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
CHENNAI.

2 THE INSPECTOR OF POLICE,
W-22 ALL WOMEN POLICE STATION,
MYLAPORE, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S. C.PRABAKARAN Advocate on payment of necessary
charges SR.NO.14817

CRL OP.24322/2021

Date :14/12/2021

CSK 15/12/2021