



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Date : 28/10/2021

PRESENT

The Hon`ble Mr.Justice B.PUGALENDHI
CRL OP(MD) No.12992 of 2021

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P.Vijay

... Petitioner/Sole Accused

Vs

1.The State of Tamil Nadu
Rep. By The Inspector of Police,
Karimedu Police Station,
Madurai City,
[Crime No.376 of 2021]

2.Transferred to
the Inspector of Police,
All Women Police Station(South),
Madurai City.
[Crime No.376 of 2021]

... Respondent No.1 & 2 /
Complainant

For Petitioner : Mr.A.Ramesh,
Senior Counsel
for Mr.Gunasekaran.P

For Respondent : Mr.T.Senthil Kumar
Additional Public Prosecutor

PETITION FOR ANTICIPATORY BAIL Under Sec.438 of Cr.P.C.

PRAYER :-

For Anticipatory bail in Crime No.376 of 2021 on the file of the Respondent police.

ORDER : The Court made the following order :-

The petitioner, who apprehends arrest in connection with Crime No.376 of 2021 on the file of the respondent Police for the offence under Sections 8, 11(1), 12, 17 and 21(2) of the Protection of Children From Sexual Offences Act, seeks anticipatory bail.

2.The case of the prosecution is that the defacto complainant one Jeyachandran lodged a complaint that the victim was a student of Velli Nadar Madurai Corporation School. Now she is pursuing her graduation. When she was preparing for NEET, the victim attended conversation through WhatsApp with the petitioner and sent pornographic pictures with sexual intention.



3.The learned Senior Counsel appearing for the petitioner submits that the petitioner is an B.T. Assistant at Velli Veediyar Madurai Corporation School and he is discharging his duty diligently and therefore, he has achieved 100% result in the Corporation School from the year 2012 to 2019 and he has been awarded with certificate of appreciation by the Education Authorities and Madurai Corporation Commissioners.

4.The learned Senior Counsel further submits that the above case has been registered as against this petitioner at the instance of third party. The defacto complainant is completely a stranger and has no association with the victim. This complaint has been lodged by the third person by way of private complaint under Section 156(3) CrPC and the case came to be registered as against the petitioner. Knowing that this criminal case has been registered by using her name, the victim has filed two criminal original petitions before this Court in Crl.O.P(MD)Nos.8801 and 8802 of 2021 respectively seeking direction for action against the defacto complainant under Section 27 of the POCSO Act, that a false case has been instituted and for a direction to file a final report based on her statement in the said crime number.

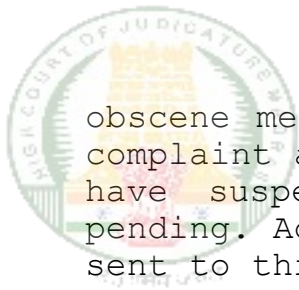
5. The learned Senior Counsel also submits that the statement under Section 164 CrPC was recorded on 11.05.2021 from the victim, wherein it is stated that no such incident has occurred and subsequently, another statement was also recorded on 08.09.2021 under coercion. There are two contradictory statements given by the victim. Even in the statements recorded from the victim, her sister and father, it is stated that they were not intending to pursue complaint.

6.The learned Senior Counsel appearing for petitioner has also filed medical documents of the petitioner and submits that the petitioner is suffering with cancer and he is taking chemotherapy treatment. Further he has been placed under suspension pending investigation.

7.The learned Additional Public Prosecutor appearing for the respondent Police submits that this case has been registered against the petitioner based on the directions of the learned Judicial Magistrate under Section 156(3) CrPC and the preliminary investigation reveals that this petitioner has committed some mischief and the statements of the Teachers and students have also been recorded. The investigation is at preliminary stage and therefore, objected for grant of anticipatory bail.

8.Heard the learned Counsel on either side and perused the materials placed on record.

<https://hcservices.equityinvestments.com>
9.The learned Additional Public Prosecutor submits that the victim was attending the coaching classes of the petitioner through online. While so, the petitioner has played some mischief by sending some



obscene messages. Therefore, the father of the victim has lodged a complaint and subsequently, withdrew it stating that by mistake they have suspected this petitioner and the investigation is still pending. Admittedly, there is no physical contact and messages were sent to through phone.

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10. Taking into account, the material as against the petitioner, this Court on 05.10.2021 directed the petitioner to appear before the respondent police and to subject his mobile phones for interrogation. Accordingly, this petitioner has also appeared before the respondent police and handed over his mobile phones to the respondent Police.

11. Considering the nature of allegations, the available materials on record, the applications filed by the victim as against present complaint pending against this petitioner and the conduct of the petitioner in co-operating with the investigation agency by submitting his mobile phones for interrogation and also the chemotherapy treatment being under gone by the petitioner for his illness, this Court is inclined to grant anticipatory bail to the petitioner.

12. Accordingly, this criminal original petition is allowed and the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date of receipt of a copy of this order, before the learned Judge, Special Court to deal with the cases under POCSO Act, Madurai on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties each for a like sum to the satisfaction of the learned Magistrate concerned and on further conditions that:

[a] the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhaar card or bank pass book to ensure their identity.

[b] the petitioner shall report before respondent police on every Monday at 10.30am until further orders.

[c] the petitioner shall not tamper with the 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 is 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]**.



[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

sd/-
28/10/2021

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/ /2021

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

dsk

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

TO

- 1.THE JUDGE,
SPECIAL COURT TO DEAL WITH THE CASES UNDER POCSO ACT,
MADURAI.
- 2.THE INSPECTOR OF POLICE,
KARIMEDU POLICE STATION,
MADURAI DISTRICT.
- 3.THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION(SOUTH) ,
MADURAI CITY.
- 4.THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1 CC to M/s.P.GUNASEKARAN, Advocate (SR-33100[F]dated 28/10/2021)

ORDER IN
CRL OP(MD) No.12992 of 2021
Date :28/10/2021

SB/SKN/SAR-I/02.11.2021/4P/6C