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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.01.2022

CORAM:

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

Crl.O.P.No.279 of 2022

M.Sasikumar

.. Petitioner

Vs.

State rep by
The Inspector of Police,
W-2, Triplicane All Women Police Station,
Chennai.
(Cr.No.7 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to grant bail to the petitioner in Cr.No.7 of 2021, on the file of the All Women Police Station, Triplicane, Chennai.

For Petitioner : Mr.D.Ashok Kumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.10.2021 for the offences under Section 6 of the 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 defacto complainant is the father of the victim minor girl aged about 16 years and the petitioner is a married man aged about 29 years. It is alleged that the petitioner had committed penetrative sexual assault against the victim. Hence, the defacto complainant lodged a complaint before the Law Enforcing Agency.

3. The learned Counsel for the petitioner submits that the petitioner has not committed any such offence as alleged by the prosecution and he has been falsely implicated in this case. He further submits that the petitioner is a married person and living with his wife and there was previous enmity between the petitioner and the defacto complainant, the defacto complainant lodged a false complaint against him. He further submits that the petitioner has been suffering incarceration from 19.10.2021. Hence, he seeks to grant bail to the petitioner.



4. The learned Government Advocate (Crl. Side) on instructions submits that the investigation was almost completed and the minor girl was secured. He further submits that the statement of the victim girl under Section 164 Cr.P.C has been recorded. However, he vehemently opposed to grant bail to the petitioner.

5. Considering the facts and circumstances of the case and also considering the submissions made by both counsel and also considering the period of incarceration undergone by the petitioner, this court is inclined to grant bail to the petitioner with a condition that the petitioner should not have any communication with the victim girl and her family.

[a] the Petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.10,000/- (Rupees ten thousand only), before the Superintendent of the concerned prison, in which the petitioner has been confined and thereafter on his release;

[b] the petitioner shall execute two sureties for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Sessions Judge, Special Court under POCSO Act, Chennai within 15 days from the date of commencement of the Court's normal functioning, failing which the bail granted by this Court shall stand dismissed automatically;

[c] 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;

[d] the petitioner shall report before the respondent police on every Saturday at 10.30 a.m. until further orders;

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] the petitioner shall not abscond either during investigation or 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.

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-sd/-
12/01/2022

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 SESSIONS JUDGE,
SPECIAL COURT UNDER POCSO ACT, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

3 THE INSPECTOR OF POLICE,
W-2, TRIPPLICANE ALL WOMEN POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.D.ASHOK KUMAR Advocate on payment of necessary charges SR.NO.643

CRL OP.279/2022

Date :12/01/2022

RW 19/01/2022