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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.298 of 2022

Rishi @ Surya

.. Petitioner

Vs.

State rep by
The Inspector of Police,
Chengam-All Women Police Station,
Tiruvannamalai District
(Cr.No.3 of 2020)

... 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 2020 on the file of the respondent police seeks bail.

For Petitioner : Mr.M.Pachiyappan

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

ORDER

The petitioner who was arrested and remanded to judicial custody on 06.09.2020 for the offences under Section 363, 366, 376 (AB) of IPC, section 5(1), 5(m) r/w section 6 of POCSO Act 2012 in Crime No.3 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim minor girl aged about 9 years is the daughter of the defacto complainant and the petitioner is neighbor of the defacto complainant. It is alleged that the petitioner has committed aggravated penetrative sexual assault upon the victim minor girl. Hence, the complaint.

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 has been suffering incarceration for from 06.09.2020. 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 and charge sheet also filed. 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 strictly co-operate for trial proceedings and further he should not have any communication with the defacto complainant family members.

[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 Special Court for Exclusive Trial of Cases under POCSO Act, Thiruvannamalai 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 everyday 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 SPECIAL COURT FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
TIRUVANNAMALAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, VELLORE.

3 THE INSPECTOR OF POLICE,
CHENGAM ALL WOMEN POLICE STATION,
TIRUVANNAMALAI DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S M.PACHIYAPPAN Advocate on payment of necessary charges SR.NO.621

CRL OP.298/2022

Date :12/01/2022

RW 19/01/2022