



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2022

CORAM:

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

Cr1.O.P.No.3489 of 2022

M.Illayaraja

... Petitioner

Vs.

State Rep by
The Inspector of Police,
W18, All Women Police Station,
MKB Nagar,
Chennai - 600 039.
(Crime No.22 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.22 of 2021, pending on the file of the Inspector of Police, W18, All Women Police Station, MKB Nagar, Chennai - 600 039.

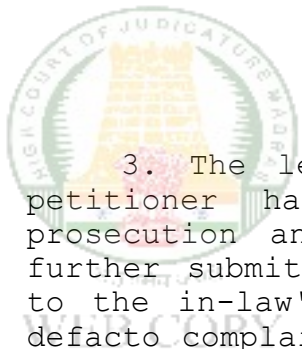
For Petitioner : Mr.C.Senapathi

For Respondent : Mr.L.Baskaran
Government Advocate (Cr1.side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 28.09.2021 for the offence under Section 6 of POCSO Act, 306, 354-D, 506(i) of IPC, 4 of TNPHW Act and 67 of IT Act, in Crime No.22 of 2021, on the file of the respondent police seeks bail.

2. The case of the prosecution is that the defacto complainant is none other than the sister of the wife of the petitioner. It is alleged that the petitioner had given more than 25 lakhs to his in-laws' family for construction of house and also taken cash of various expenses. Due to some misunderstanding, the petitioner and his wife got separated. Hence, the petitioner demanded for repayment of the money spent to the in-law's family. Consequent to his demand, the defacto complainant has lodged this complaint.



3. The learned counsel for the petitioner submitted that the petitioner has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He further submitted that the petitioner demanded for repayment amount to the in-law's family and 164 statement was recorded and now the defacto complainant's age was 24 years and both are relatives and the alleged occurrence has taken place in the year 2014. Hence, he would pray for grant of bail.

4. The learned Government Advocate (Crl.side) would raise strong objection stating that at the time of occurrence the victim girl was a minor and the defacto complainant has been subjected to sexual assault repeatedly by the petitioner during her minor hood and the alleged occurrence has taken place in the year 2014 and the investigation almost completed. Hence, he vehemently, opposed grant of bail to the petitioner.

5. Considering the facts and circumstances of the case and also the submissions made by both counsel and also considering the period of incarceration undergone by the petitioner and the investigation was almost completed and the petitioner is close relative of the defacto complainant proves through the photographs was annexed with the petition, this Court is inclined to grant bail subject to the following conditions:

(a) the petitioner is ordered to be released on bail on 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 Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

(b) 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;

(c) the petitioner shall report before the respondent police every Wednesday and Saturday at 10.30 a.m., for a period of two months and thereafter as and when required for interrogation and the petitioner shall not have any communication to the defacto complainant;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigation or trial;



(f) 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;

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

-sd/-
18/02/2022

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,
CHENNAI.

2 THE INSPECTOR OF POLICE,
W18, ALL WOMEN POLICE STATION,
MKB NAGAR, CHENNAI-600 039.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.C.SENAPATHI Advocate on payment of necessary
charges SR.NO.2626

CRL OP.3489/2022

Date :18/02/2022

JPA 21/02/2022