



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 31.01.2022

CORAM:

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

Cr1.O.P.No.1916 of 2022

Kaliyamoorthy @ Moorthy @ Periyathambi

... Petitioner

Vs.

State Rep by
The Inspector of Police,
W-9, All Women Police Station,
Villivakkam, Chennai.
(Crime No.12 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.12 of 2021 on the file of the respondent police.

For Petitioner : Mr.S.Senthilvel

For Respondent : Mr.A.Gokula Krishnan
Additional Public Prosecutor

ORDER

The petitioner who was arrested and remanded to judicial custody on 02.11.2021 for the offences under Sections 5(m), 5(n), r/w 6 of POCSO Act, 2012 in Crime No.12 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution that the defacto complainant lodged a complaint before the respondent police Stated that her daughter who is aged about 1 $\frac{1}{4}$ years was sexually harassed by the petitioner.

3. The learned Counsel for the petitioner submits that the petitioner is the grand father of the victim child and complainant is the daughter in law of the petitioner, due to the family dispute he has falsely implicated in this case and he has not committed any such offence as alleged by the prosecution He further submits that the petitioner was suffering incarceration for more that fifty days from 02.11.2021. Hence, he seeks to grant bail to the petitioner.



4. The learned Additional Public Prosecutor would raise objection stating that the petitioner had sexually harassed the defacto complainant's daughter and the statement of the defacto complainant under Section 164 of Cr.P.C has been recorded and the investigation was almost completed.

5. A perusal of 164 statement reveals that the defacto complainant herself admitted that on wrong assumption, she gave a complaint against her father-in-law that he misbehaved with her 1½ female child.

6. Considering the above facts and circumstances of the case and also the fact that the investigation was completed and there was no serious allegations levelled against the petitioner, this Court is inclined to grant bail to the petitioner with conditions.

[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 each like sum for a sum of Rs.10,000/- (Rupees Ten Thousand only), before the learned Additional Mahila Court, Egmore, 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 appear before the respondent police daily at 10.30 a.m for a period of four weeks, 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.

WEB COPY

-sd/-

31/01/2022

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 ADDITIONAL MAHILA COURT
EGMORE.

2 THE INSPECTOR OF POLICE,
W-9, ALL WOMEN POLICE STATION,
VILLIVAKKAM, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL-II, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S S.SENTHILVEL Advocate on payment of necessary charges

CRL OP.1916/2022

Date :31/01/2022

CSK 01/02/2022