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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.02.2022

CORAM : JUSTICE N.SESHASAYEE

Crl.R.C.No.153 of 2022

Appas (M/23)
S/o.Akbar

... Petitioner / Accused

Vs.

State rep by
The Inspector of Police,
All Women Police Station
Palladam
Tiruppur District.
(Crime No.9/021)

... Respondent / Complainant

Prayer : Criminal Revision filed under Section 397 Cr.P.C., praying to set aside the order passed by the learned Sessions Judge, Mahila Court, Tiruppur in EE.C.M.P.No.256 of 2021 in Spl.S.C.No.117 of 2021 on the file of the learned Sessions Judge, Mahila Court, Tiruppur in Crime No.9 of 2021 on the file of the respondent police as the investigation was not completed within the mandatory period of 90 days as per Section 167(2)(ii) Cr.P.C.,

For Petitioner	: Mr.R.Rajprabhu
For Respondent	: Mr.Leonard Arul Joseph Selvam Government Advocate (Crl. Side)

ORDER

The petitioner herein is arrayed as an accused in Crime No.9 of 2021 on the file of the respondent police for offences under Section 506(ii) IPC, 5(1), 5(n) r/w.6 of POCSO Act, 2012 and that he was arrested and remanded to judicial custody on 19.09.2021 before the learned Sessions Judge, Mahila Court, Tiruppur and ever since, he is in judicial custody. Thereafter, the petitioner has moved a bail application before the learned Sessions Judge on 20.12.2021 through e-portal, and on the following day (i.e.,) on 21.12.2021, the petitioner has filed the copy of the said bail application in the registry of the trial Court, on which date, the respondent police has filed their charge sheet, and the same was taken on file in Spl.C.No.117/2021. The learned Sessions Judge has dismissed the bail application of the accused in E.C.M.P.No.256/2021 in Spl.SC.117/2021 on the ground that the petitioner cannot be enlarged on bail, after the filing of the charge sheet. Challenging the order of dismissal, the revision is filed.



2. The learned counsel for the revision petitioner would submit that the police has not filed the charge sheet within the stipulated period of 90 days as prescribed under law, and that the trial Court has erred in not considering the constitutional right available to the petitioner, essentially when the investigation was not complete and charge sheet was not filed within the mandatory period.

3. The learned Government Advocate (Criminal Side) objected to in allowing this revision and contended that the revision petition would abscond and tamper the evidence and would harass the victim, if he is released on bail.

4. Taking into consideration the duration of incarceration suffered by the petitioner and the line of prosecution case and also the stage of investigation, this Court finds it appropriate to grant bail to the revision petitioner on the following conditions;

- (i) the appellant shall be released on bail on he executing a bond for a sum of Rs.10,000/- with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Mahila Court, Tiruppur.
- (ii) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Sessions Judge, Mahila Court, Tiruppur may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;
- (iii) The appellant shall stay in Salem and report) before the Judicial Magistrate, Salem daily at 10.30 a.m. until further orders;
- (iv) on breach of any of the aforesaid conditions, the learned Sessions Judge is entitled to take appropriate action against the appellant in accordance with law as if the conditions have been imposed and the appellant released on bail by the learned Sessions Judge himself as laid down by the Hon'ble Supreme Court in P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]; and
- (v) if the appellant thereafter absconds, a fresh FIR can be registered under Section 229A IPC;



5. In the result, this revision is allowed and the order passed by the learned Sessions Judge, Mahila Court, Tiruppur in E.C.M.P.No.256 of 2021 in Spl.S.C.No.117 of 2021 is set aside.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge
Mahila Court (FAC), Tiruppur.
2. The Superintendent of Prison,
Central Prison,
Coimbatore.
3. The Inspector of Police,
All Women Police Station
Palladam
Tiruppur District.
4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

Cr1.R.C.No.153 of 2022

PA(CO)
A.SK(28.02.2022)