



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.No.3492 of 2022

Vijayakumar

...Petitioner

Vs.

The State of Tamilnadu,
Represented by its Inspector of Police,
W-9, All Women Police Station,
Villivakkam,
Chennai 600 049
(Crime No.1 of 2015)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Criminal Procedure Code, 1973 praying to enlarge the petitioner on bail pending investigation in Spl.SC.No.7 of 2021 on the file of the Special Judge for Exclusive Trial of Cases under POCSO Act, Chennai

For Petitioner : Mr.K.Madhan

For Respondent : Ms.G.V.Kasthuri
Additional Public Prosecutor

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 29.10.2021 for the offences under Section 9 (n) r/w 10 of POCSO Act and Section 509, 506(i) of IPC in Crime No.1 of 2015, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner who is the step father of the victim child committed sexual assault against the victim child. Hence the complaint.

3.The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that in the 164 Cr.P.C. statement given before the Magistrate, the victim girl has stated as no such



occurrence had happened. It is his specific submission that the petitioner is under judicial custody from 29.10.2021 onwards. Hence, he prays for bail.

4. M/s.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police raised objection stating that the alleged occurrence committed by the petitioner is a heinous one. However as of now, investigation in this case has been completed and final report has also been filed before the Special Court for Exclusive Trial Cases under POCSO Act, Chennai.

5. The submissions made by the learned Counsel on either side are considered.

6. It seems that the respondent police registered a case as against the petitioner for the offence under Section 9 (n) r/w 10 of POCSO Act and Section 509, 506(i) of IPC. Though averment found in the first information report disclose the fact that the petitioner being father of the victim child, committed offence as alleged by the prosecution, in the 164 Cr.P.C. statement given by the victim girl, she has turned her version and stated that nothing had happened as alleged by the prosecution. Hence, the evidentiary value of the said statement can be considered only during the time of trial. In otherwise, being reason that the investigation has already been completed, further custody of the petitioner may not be necessary in this matter.

7. Hence, taking note of all the above said aspects into consideration and having regard to the nature of offence committed by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) the petitioner is ordered to be released on bail to execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Special Judge 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 learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report before the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai daily at 10.00 a.m. until further orders.

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



(e) on breach of any of the aforesaid conditions, the learned Judicial 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];

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

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

14/02/2022

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 JUDGE FOR
EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI.

3 THE INSPECTOR OF POLICE,
W-9, ALL WOMEN POLICE STATION,
VILLIVAKKAM, CHENNAI-600 049.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

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

CRL OP.3492/2022

Date :14/02/2022

RW 15/02/2022