



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.No.2635 of 2022

Elayaraja

.. Petitioner

Vs.

State by
The Inspector of Police,
W 15, All Women Police Station,
Royapuram, Chennai.
(Crime No.1248 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.1248 of 2021 pending investigation on the file of the respondent.

For Petitioner : Ms.C.Renuka

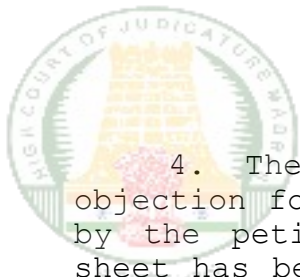
For Respondent : Mrs.G.V.Kasthuri,
Additional Public Prosecutor

O R D E R

The petitioner who was arrested on and remanded to judicial custody on 03.09.2021 for the offences under Girl Missing subsequently the FIR altered under Section 366 of IPC and Section 4 of POCSO Act in Crime No.1248 of 2021, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on the date of occurrence, when at the time, the victim girl was standing near to Central Railway Station, the petitioner, who is the driver in an ambulance brought the victim girl to the beach and spent some time. Afterwards, he brought the victim girl to his friend house, wherein the petitioner forcibly had intercourse with the victim girl. Hence 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 would further submit that the petitioner in incarceration from 03.09.2021 and as on now, investigation has been completed and the charge sheet has also been filed before the appropriate Court. Accordingly, he seeks for grant of bail to the petitioner.



4. The learned Additional Public Prosecutor, though raised objection for allowing this application, accept the contention raised by the petitioner's counsel as investigation completed and charge sheet has been filed before the Special Court for Exclusive Trial of Cases under POCSO Court, Chennai and the same has not been assigned with the case number.

5. Submissions made by the learned counsel on either side were considered.

6. Admittedly, during the relevant point of time, the victim girl is aged about 15 years. The averments found in the copy of the 164 Cr.P.C. statement, which recorded by the Metropolitan Magistrate, Fast Track Court-V, Saidapet discloses the fact that both the petitioner and the victim girl are lovers and during the relevant point of time, the victim girl left her parental home and only after such incident, the alleged occurrence was happened. Therefore, considering the nature of the offence committed by the petitioner as well as for the reasons that the petitioner is in judicial custody from 03.09.2021, this Court is inclined to grant bail to the petitioner with certain conditions.

7. Accordingly, the petitioner is ordered to be released on bail on their executing separate bonds 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 Court, Chennai - 600 104, and on further conditions that:

(a) 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;

(b) the petitioner shall report before the Trial Court Proceedings regularly at 10.00 a.m., without fail;

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

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

(e) 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;



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

-sd/-

07/02/2022

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 COURT,
CHENNAI- 600 104.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

3 INSPECTOR OF POLICE,
W-15, ALL WOMEN POLICE STATION,
ROYAPURAM, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE METROPOLITAN MAGISTRATE,
FAST TRACK COURT-V,
SAIDAPET, CHENNAI

CC to M/S C.RENUKA Advocate on payment of necessary charges
Sr.2066

CRL OP.2635/2022

Date :07/02/2022

RVR 08/02/2022