



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R. PONGIAPPAN

Cr1.O.P.No.3128 of 2022

PERIYASAMY

...Petitioner

Vs.

THE STATE,
Rep. by Inspector of Police,
Anamalai Police Station,
Coimbatore District.
(Crime No.747 of 2021)

... 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 Crime No.747 of 2021 on the file of the respondent police.

For petitioner : Mr.M.Solaisamy

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 30.11.2021 for the offences under Sections 4(2), 5(1), 5(m), 5(n), 6, 9(1), 9(m), 9(n) & 10 of POCSO Act and Section 506(ii) of IPC, in Crime No.747 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl aged about 15 years was residing along with her mother, two sisters and one brother, grandmother and grandfather. Her father who is the accused herein left the family four years ago in the year 2018 due to the misunderstanding with her mother. The victim's mother is working as coolie worker and working on day to day basis and the father is working as Watcher in Forest Department for the past 8 years. The victim girl's mother used to go to her work at morning 08.00 a.m., and return only by evening 07.00 p.m. During that time, the accused used



to drink alcohol by sitting in the house. At that time the accused used to remove all her clothes and committed sexual offence and thereafter he threatened her with dire consequences. Hence the complaint.

WEB COPY

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 the present case has been registered by the respondent police in the year 2021 for the occurrence alleged to be committed by the petitioner in the year 2015 to 2018. It is his further submission that the petitioner is in judicial custody from 30.11.2021 onwards. Hence, he prays for bail to the petitioner.

4. M/s.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she admits that in the year of 2018 itself, all the victims herein are left the family of the accused along with their mother.

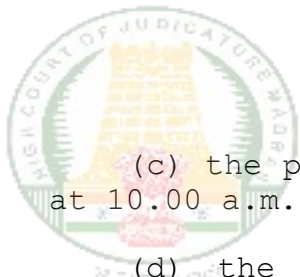
5. The submissions made by the learned Counsel on either side are considered.

6. The respondent police registered a case against the petitioner for the offence punishable under Sections 4(2), 5(1), 5(m), 5(n), 6, 9(1), 9(m), 9(n) & 10 of POCSO Act and Sec 506(ii) of IPC. It is true the averment found in the first information report disclose ugly things against the petitioner. However on considering the other circumstances, it is admitted on either side that in the year of 2018 itself, the mother of the victims are separated from the petitioner and living together with her parents. Afterwards only in the year of 2021, the present case has been registered against this petitioner. The reason for the delay is not stated in the complaint. Accordingly, FIR has been registered with the delay of 3 years.

7. Taking into consideration of all the above said facts and also by considering the period of incarceration suffered 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 Court for Exclusive Trial of Cases Under POCSO Act, Coimbatore;

(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 respondent police 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/-

16/02/2022

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,
COIMBATORE.

2 THE INSPECTOR OF POLICE,
ANAMALAI POLICE STATION,
COIMBATORE DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

4 THE PUBLIC PROSECUTOR,
HIGH COURT, MADRAS.

+1 CC to M/S.M.SOLAISAMY Advocate on payment of necessary charges
SR.NO.2462

CRL OP.3128/2022

Date :16/02/2022

INBA~16/02/2022

JPA 25/02/2022