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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.3234 of 2022

B.Saravanan

... Petitioner /
Accused

versus

State Rep. by its
Inspector of Police
W-8, Thirumangalam All Women Police Station,
Chennai - 625 706.
(Crime No.35 of 2021)

... Respondent /
Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail pending investigation in Crime No.35 of 2021 on the file of the respondent police.

For Petitioner : Mr.K.Suthan

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

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 28.12.2021 for an offence punishable under Section 8 of the Protection of Child from Sexual Offences Act, 2012 in Crime No. 35 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner misbehaved with the de facto complainant's daughter, who is aged about 12 years. 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 the petitioner is the breadwinner of the family and he is in judicial custody from 28.12.2021 onwards. Hence, he prays for bail.



4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending.

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

6. It seems that the respondent police registered a case against this petitioner for the offence punishable under Section 8 of the Protection of Child from Sexual Offences Act, 2012. The averments found in the First Information Report would disclose the fact that during the relevant point of time, the petitioner waylaid the victim and later pressed her chest. Immediately, after the said occurrence, the victim ran away and informed the same to her mother, but for the reason best known to her mother, she has not preferred the complaint immediately before the Police Officer, only with a delay of 21 days, the present case has been registered. There is no previous case against this petitioner and he is in judicial custody from 28.12.2021 onwards.

7. Therefore, taking note of the fact that the petitioner is in judicial custody from 28.12.2021 onwards and the delay in lodging the First Information Report, further custody of the petitioner is not necessary. Hence, this Court is inclined to grant bail to the petitioner subject to certain conditions. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall 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 learned Sessions Judge, Special Court 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 is directed to appear 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.

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-sd/-

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This order, on being produced, be punctually observed and carried into execution by all concerned

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Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL JAIL, PUZHAI, CHENNAI.

3 THE INSPECTOR OF POLICE,
W-8, THIRUMANGALAM ALL WOMEN POLICE STATION,
CHENNAI-625 706.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.K.SUTHAN Advocate on payment of necessary charges
SR.NO.2449

CRL OP.3234/2022

Date :17/02/2022

RW 18/02/2022