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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:11.02.2022

CORAM:

THE HON'BLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.No.3392 of 2022

Claro

...Petitioner

Vs.

State rep. by its
The Inspector of Police,
W-4, All Women Police Station,
Kilpauk, Chennai
(Crime No.6 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.6 of 2021 on the file of the respondent police.

For Petitioner : Mr.R.Thamaraiselvan
for Mr.M.Mariraj

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

ORDER

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 23.04.2021 for the offences under Sections 10, 9(1), 9(m), 9(n) and 17 of POCSO Act, 2012 and 506(Part II) of I.P.C in Crime No.6 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant used to leave her daughter in her sister's house. While being so, at one night, the daughter cry out of fear, pursuant to which she took her daughter to psychiatrist. At that time, she came to know that her daughter faced sexual torture from the age of 6 by the petitioner and also the defacto complainant's sister's husband also sexually tortured the child. Thereafter the petitioner used to take the defacto complainant's daughter to the church and one, Henry who is the second accused in this case also used to sexually torture the 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 the other accused, who are all involved in the alleged occurrence are released on bail by this Court. It is his specific submission that the petitioner is under Judicial custody from 23.04.2021 onwards. Hence, he prays for bail.

4. Ms.G.V.Kasthuri, learned Additional Public Prosecutor appearing for the respondent police raised objection stating that the offences committed by the petitioner is serious in nature. However, she admits that now in the petition mentioned case, charge sheet has been filed after completing investigation.

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

6. The copy of the 164 Cr.P.C statement recorded from the victim child is placed for perusal. The averment found in the 164 Cr.P.C statement would go to show that the petitioner herein committed the alleged offence on 01.03.2012. Subsequently, the other accused, who are all implicated alone would continued the same till 2020 and as a result of which, the present case has been registered. Admittedly, the other accused are all enlarged on bail by this Court. Further, due to the reason that investigation has been completed, custodial interrogation may not be arised. The petitioner is the first time offender. Hence, it is a fit case to grant bail and this Court is inclined to grant bail to the petitioner subject to the condition.

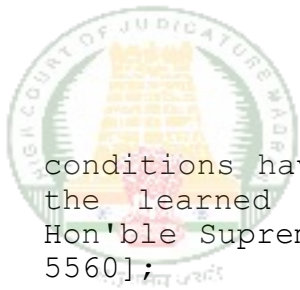
(a) the petitioner is ordered to be released on bail on executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

(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 shall report before the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai daily at 10.00 a.m, for a period of 30 days and thereafter, as and when required for trial.

(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 petitioners in accordance with law as if the



conditions have been imposed and the petitioners 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];

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

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

-sd/-

11/02/2022

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 POSCO ACT,
CHENNAI.

2 THE INSPECTOR OF POLICE,
W-4, ALL WOMEN POLICE STATION,
KILPAUK, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1CC to M/S.M.MARIRAJ Advocate on payment of necessary charges
SR.No.2241

CRL OP.3392/2022

Date :11/02/2022

CSK 11/02/2022