



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.3728 of 2022

Arulraj

... Petitioner

Vs.

State: Inspector of Police,
W 22, All Women Police Station,
Mylapore,
Chennai.

... Respondent

PRAYER:

Criminal Original Petition has been filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail pending investigation in Spl.S.C.No.3 of 2022 in Crime No.8 of 2021 on the file of the respondent police.

For petitioner : Mr.M.Rajavelu

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 03.07.2021 for the offences under Sections 6 r/w 5(m) of POCSO Act, 2012 in Crime No.8 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 30.06.2021, when the defacto complainant came to home after her work, her daughter aged about 8 years complained of stomach pain. Next day the child had said that the petitioner had misbehaved with her. 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 as of now the respondent police completed investigation and filed final report in the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai. It is his further submission that the petitioner is in judicial custody from 03.07.2021 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 the offence committed by the petitioner is a heinous one. However she admits that as of now, the investigation is completed and the case is pending before the trial court for trial.

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

6. The respondent police registered a case as against the petitioner for the offence punishable under Sections 6 r/w 5(m) of POCSO Act 2012. Admittedly the petitioner is the first offender. He is in incarceration from 03.07.2021. As of now, the investigation is completed and trial is pending before the trial court. Therefore, the question of tampering the witness does not arise.

7. 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 Court for Exclusive Trial of Cases Under POCSO Act, Chennai-104;

(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 should not enter into the occurrence place without getting permission from the trial court;



(d) the petitioner is directed to appear before the Special Court for Exclusive Trial of Cases Under POCSO Act, Chennai-104 on every hearings;

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

(f) 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];

(g) 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,
CHENNAI-104



2 THE INSPECTOR OF POLICE
W 22, ALL WOMEN POLICE STATION,
MYLAPORE, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. M.RAJAVELU Advocate on payment of necessary charges
SR.NO.2404

CRL OP.3728/2022

Date :16/02/2022

JPA 17/02/2022