



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. No.3738 of 2022

Kumar

... Petitioner / Accused

versus

State Rep. by
Inspector of Police
All Women Police Station,
Palladam, Tiruppur District.
(Crime No.13 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.13 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Mohamed Riyaz

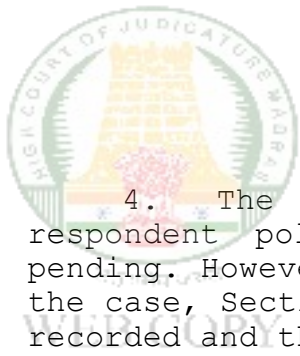
For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 07.12.2021 for the offences punishable under Sections 4(2), 5(m), r/w 6 and 9(m) r/w 6 and 10 of the Protection of Child from Sexual Offences Act, 2012 in Crime No.13 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 8 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 07.12.2021 onwards. Hence, he prays for bail.



4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that investigation is pending. However, she fairly admits that, as of now, after registering the case, Section 164(5) Cr.P.C. statement of the victim girl has been recorded and the medical examination has also been completed.

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 offences punishable under Sections 4 (2), 5(m), r/w 6 and 9(m) r/w 6 and 10 of the Protection of Child from Sexual Offences Act, 2012. The averments found in the First Information Report as well as 164(5) Cr.P.C. statement disclose the fact that during the relevant point of time, the petitioner after knowing the victim child, who is 8 years old, touched her secret parts. Though the said offence committed by the petitioner may be heinous one, considering the fact that the petitioner is in judicial custody from 07.12.2021 onwards, this Court came to the conclusion that the further custody of the petitioner is not necessary for completing the investigation. Therefore, this Court is inclined to grant bail to the petitioner subject to certain conditions.

7. 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 Mahila Court, Tirupur;

(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.

WEB COPY

-sd/-
17/02/2022

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 MAHILA COURT
TIRUPPUR.

2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION,
PALLADAM, TIRUPPUR DISTRICT.

3 THE SUPERINTENDENT,
CENTRAL PRISON, TIRUPUR.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.M.MOHAMED RIYAZ Advocate on payment of necessary charges SR.NO.2496

CRL OP.3738/2022

Date :17/02/2022

JPA 18/02/2022