



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. No.3786 of 2022

K.Venkatesan @ K.Kabali

... Petitioner / A-1

versus

The State
Represented by The Inspector of Police,
E3, W-24, All Women Police Station,
Teynampet, Chennai.
(Crime No.1 of 2022)

... Respondent / Complainant

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C., praying to enlarge the petitioner on bail in Crime No.1 of 2022 on the file of the respondent police.

For Petitioner : Mr.PL.Narayanan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.01.2022 for the offences punishable under Sections 10 r/w 9(i), 9(n), 21(1) and 17 of POCSO Act in Crime No.1 of 2022, 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, who is aged about 16 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 in the complaint, the victim child did not raised any allegation against this petitioner. It is his



specific submission that the petitioner is the first time offender and he is in judicial custody from 25.01.2022 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, the statement under Section 164(5) Cr.P.C. was recorded from the victim child.

5. Considered the submissions made by the learned counsel appearing on either side. The copy of the First Information Report and the copy of the statement given by the victim child before the learned Magistrate was placed before this Court for perusal. In the statement given before the learned Magistrate, the victim child specifically stated that only for the threat made by the petitioner, she lodged the complaint before the respondent police. Further, it was alleged that, at the time she went to the police station along with her mother for not pressing the complaint, the police refused to accept the request made by the de facto complainant and only in the said circumstances, the petitioner is before this Court for granting bail.

6. Therefore, taking into consideration of the fact that the de facto complainant has not placed any allegation against this petitioner in the statement given before the learned Magistrate and also for the reason that the petitioner is in incarceration from 25.01.2022, 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 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 respondent police daily at 10.00 a.m. for a period of thirty days and thereafter, as and when required for interrogation;

(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.

-sd/-
23/02/2022

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.

2 THE INSPECTOR OF POLICE,
ESW-24, ALL WOMEN POLICE STATION,
TEYNAMPET, CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISION, PUZHAL-II,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.PL.NARAYANAN Advocate on payment of necessary
charges SR.NO.2797

CRL OP.3786/2022

Date :23/02/2022

JPA 25/02/2022