



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P. No. 4169 of 2022

Kamalakkannan

... Petitioner /
Accused

versus

State represented by
The Inspector of Police,
All Women Police Station, Avinashi,
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 in Crime No.13 of 2021 on the file of the respondent police.

For Petitioner : Mr.S.Arjun

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 24.12.2021 for an offence punishable under Section 9(n) r/w 10 of POCSO 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 13 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, previous to the occurrence, the sister of the petitioner has lodged a complaint against the husband of the de facto complainant and in view of the same, the cases have been registered against the husband of the de



facto complainant in Crime No.1 of 2022 on the file of All Women Police Station, Avinashi and in Crime No. 854 of 2021 pending on the file of Perumanallur Police station. It is his specific submission that the present case has been registered against the petitioner upon the false complaint given by the de facto complainant due to previous enmity, further, the petitioner is in judicial custody from 24.12.2021 onwards. Hence, he prays for bail.

4. The learned Additional Public Prosecutor appearing for the respondent police raised objection stating that, the gravity of offence alleged to be committed by the petitioner, is severe in nature. However, she fairly admits that, as of now, after completing the investigation, Final Report has been filed before the trial court.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case against the petitioner for the offence punishable under Section 9(n) r/w 10 of POCSO Act 2012. The averments found in the First Information Report and the story narrated by the de facto complainant before the learned Magistrate during the time of recording Section 164 Cr.P.C. statement would disclose the fact that there was no physical relationship between the de facto complainant and the victim child. However, the same is a matter for trial. In otherwise, being the reason that the investigation has been completed in this case, the question of tampering the witness does not arise.

6. Therefore, taking note of all the above said aspects into consideration, particularly, on considering the period of incarceration, 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 Mahila Court (FAC), Tiruppur;

(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.

-sd/-

21/02/2022

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 (FAC)
TIRUPPUR.

2 THE SUPERINTENDENT,
CENTRAL PRISON, COIMBATORE.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
AVINASHI, TIRUPPUR DISTRICT.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.S.ARJUN Advocate on payment of necessary charges
SR.NO. 2654

CRL OP.4169/2022

Date :21/02/2022

RW 22/02/2022