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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.02.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.O.P. No.4369 of 2022

Samuel

... Petitioner /
Accused

versus

State Rep. by
Inspector of Police
All Women Police Station,
Tirupur South.
(Crime No.16 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.16 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Mohamed Riyaz

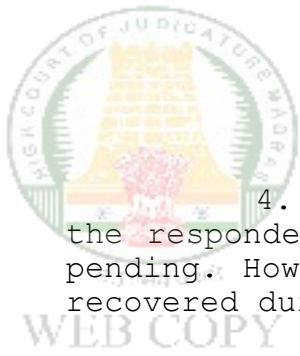
For Respondent : Mrs.G.V.Kasthuri
Additional Public Prosecutor

O R D E R

The petitioner, who was arrested and remanded to judicial custody on 04.01.2022 for the offences punishable under Sections 9(1) r/w 10 of POCSO Act, 2012 in Crime No.16 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner abused and misbehaved with the de facto complainant's daughter, 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, due to money transaction, there was a misunderstanding arose between the petitioner and the mother of the victim child. Resultantly, a false case has been foisted against this petitioner by using the victim child. It is his specific submission that the petitioner is in judicial custody from 04.01.2022 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, no obscene photographs are recovered during the time of investigation.

5. Considered the submissions made by the learned counsel appearing on either side. The respondent police registered a case against the petitioner for the offences punishable under Sections 9 (1) r/w. 10 of POCSO Act 2012. The averments found in the First Information Report and the statement recorded under Section 164(5) Cr.P.C would disclose the fact that, during the relevant point of time, the petitioner after showing the obscene photographs blackmailed the victim child, in otherwise, in the complaint itself it was stated that the messages and obscene photographs shown by the petitioner were deleted.

6. Therefore, being the reason that the de facto complainant herself admitted that there was no obscene photographs and messages are in existence, further custody of the petitioner may not be necessary for completing the investigation. Hence, 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.

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-sd/-
22/02/2022

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 SUPERINTENDENT,
CENTRAL PRISON, TIRUPPUR.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUPPUR SOUTH.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.M.MOHAMED RIYAZ Advocate on payment of necessary charges SR.NO. 2780

CRL OP.4369/2022

Date :22/02/2022

RW 22/02/2022