



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Wednesday, the Ninth day of March Two Thousand Twenty Two

PRESENT

The Hon`ble Dr Justice G. JAYACHANDRAN

CRIMINAL ORIGINAL PETITION No.5444 of 2022

J.ANGAYARKANNAN

[PETITIONER / ACCUSED]

Vs

STATE BY INSPECTOR OF POLICE
W-35, ALL WOMEN POLICE STATION,
TAMBARAM
(CRIME NO.24 OF 2021)

[RESPONDENT]

For Petitioner : MR.N.R.ELANGO, Senior Counsel for
M/S.B.MOHAN Advocate

For Respondent : MR.S.SANTHOSH, Govt. Advocate (Crl. Side)

PETITION FOR ANTICIPATORY BAIL 438 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner apprehends arrest by the respondent police for the offences punishable under Sections 12 & 17 of POCSO Act 2012 r/w 67 (B) of Information Technology Act, in Crime No.24 of 2021, is before this Court seeking anticipatory bail.

2. The petitioner herein is shown as second accused in the complaint alleging sexual harassment under the POCSO Act. As per the First Information Report, the mother of the victim minor girl has stated that her husband is the first accused in this case and the brother-in-law of her husband had committed offence under the POCSO Act punishable under Sections 12 & 17 of POCSO Act 2012 r/w 67(B) of Information Technology Act .



3. The CD file produced by the learned Government Advocate (Crl. Side) indicates that based on the complaint given by one Veera Bharathi Devi viz., the mother of the victim girl, the case has been registered and 164 statement of the victim girl was also recorded. As far as this petitioner is concerned, the 164 Statement indicates that the father of the victim girl used to take her to the petitioner's house and there certain sexual harassment has committed.

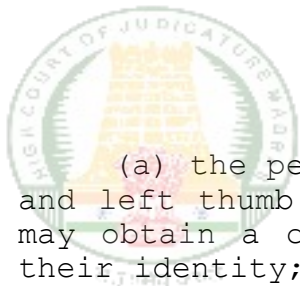
4. On overall reading of the case dairy, this Court finds that due to disharmony between the husband and wife, several proceedings have been initiated by them including the petition for divorce by mutual consent, petition for divorce, private complaint alleging sexual harassment of the minor girl, which later on enquiry closed as mistake of fact and now the present complaint. In all these complaints, very serious allegations are made against each other about moral turpitude and conduct.

5. When the anticipatory bail petition was heard and under consideration, the defacto complainant through her lawyer intervened and submitted that on 25.02.2022, there was an attempt to kidnap the minor girl from her school and the petitioner is the kingpin for the said attempt.

6. This Court on perusing the CD file as discussed above, finds that the minor girl being used as porn by the defacto complainant to settle her score against her husband and the petitioner herein. Even if the allegation are all true, the 164 statement of the minor girl has already been recorded and there is no fear of tampering of witnesses, since 164 statement of the witness could be used as an evidence under the POCSO Act during the trial and if any attempt to tamper the evidence or distort the evidence is made by the petitioner herein, it is always open to the Investigating Officer to proceed against the petitioner in accordance with law.

7. In the said circumstances, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

8. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of seven days from the date of receipt of a copy of this order, before the learned Additional Sessions Judge (Special Court for Trial of Offences under POCSO Act) Chengalpet District, on condition that the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only), with two sureties, each for a like sum to the satisfaction of the learned Magistrate, failing which, the anticipatory bail shall stand cancelled and on further condition that:



(a) the petitioner and the sureties shall affix their photographs and left thumb impression in the surety bond and the Court concerned may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity;

(b) the petitioner shall report before the Investigating Officer daily at 10.00 am., until further orders.

(c) the petitioner shall not make any attempt to meet the victim minor girl or the defacto complainant.

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

(e) the petitioner shall not abscond either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned 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]; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

-sd/-
09/03/2022

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 ADDITIONAL SESSIONS JUDGE
(SPECIAL COURT FOR TRIAL OF OFFENCES UNDER
POCSO ACT), CHENGALPET DISTRICT.

2 THE INSPECTOR OF POLICE
W-35, ALL WOMEN POLICE STATION,
TAMBARAM



THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.B.MOHAN Advocate on payment of necessary charges
SR.NO.3638

CRL OP.5444/2022

Date :09/03/2022

JPA 16/03/2022