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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.04.2022

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THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Cr1.RC.No.520 of 2022

Sasikumar

... Petitioner

Vs.

State Rep. by the Inspector of Police,
Anupparpalayam Police Station,
Tiruppur City
(crime No.34 of 2022)

...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the order in E.C.M.P.No.207 of 2022 dated 01.04.2022 passed by the learned Mahila Court, Tiruppur and enlarge the petitioner on bail under Section 167(2) of Cr.P.C. in crime No.34 of 2022.

For Petitioner : Mr.J.Franklin

For Respondent : Mr.Leonard Arul Joseph Selvam,
Government Advocate(crl.side)

ORDER

The present criminal revision petition has been filed praying to set aside the order made in E.C.M.P.No.207 of 2022 dated 01.04.2022 passed by the learned Mahila Court, Tiruppur and to enlarge the petitioner on bail under Section 167(2) of Cr.P.C. in connection with crime No.34 of 2022 pending on the file of the respondent police.

2.The case of the petitioner is that he is arrayed as an accused in crime No.34 of 2022 on the file of the Anupparpalayam Police Station, Tiruppur City. The respondent police registered the case against the petitioner in the above said crime number for the offence punishable under Section 15 of POCSO Act, Sections 66E & 67B(b) of Information Technology (Amendment) Act, 2008 and Section 506(1) of IPC. In connection with the said case, the petitioner was arrested and remanded to judicial custody on 13.01.2022 before the learned Sessions Judge, Mahila Court, Tiruppur and ever since he is in the judicial custody. Thereafter, the petitioner has moved a bail



petition before the learned Sessions Judge, Mahila Court, Tiruppur on 30.03.2022 after 76 days. In the meanwhile, the respondent police filed final report on 01.04.2022 and the same was taken on file on 04.04.2022. At any cost, the learned Sessions Judge, taking cognizance in the above said case after the period of 60 days from the date on which the F.I.R. has been registered, that too, he received the final report beyond the period of 60 days. Only in this occasion, the learned Sessions Judge dismissed the bail petition filed by the petitioner on the ground that the petitioner cannot be enlarged on bail after filing of the charge sheet. Challenging the order of dismissal, the present criminal revision has been filed.

3. The learned counsel appearing for the petitioner would submit that the police has not filed charge sheet within the stipulated period of 60 days as prescribed under law and that the trial court has erred in not considering the constitutional right available to the petitioner, essentially when the investigation was not completed and charge sheet was not filed within the mandatory period under Section 468 of Cr.P.C.

4. The learned Government Advocate(crl.side) raised objection in allowing this petition and contended that if this revision is entertained, the revision petitioner would abscond and tamper the evidence and would harass the victim.

5. Now on considering the said submissions with the relevant records, under Section 468 of Cr.P.C., it would be mandate on the part of the respondent police to file a final report within a period of 60 days, since the offences alleged to be committed by the petitioner are all punished with maximum period of three years. In this regard, in a case of Bikrakjit Singh Vs. The State of Punjab in Crl.A.No.667 of 2020, our Hon'ble Apex Court clearly held that filing an application under Section 167(2) of Cr.P.C. by the accused is indefeasible right of the accused and accordingly, this Court also followed the said judgment. Therefore, taking into consideration the duration of incarceration suffered by the petitioner and the line of prosecution case and also the stage of investigation, this Court finds it appropriate to grant bail to the revision petitioner on the following conditions:

(a) the petitioner shall be released on bail on his executing 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 learned Mahila Court, Tiruppur

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the



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learned Sessions Judge, Mahila Court, Tiruppur may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) The petitioner shall stay in Salem and report before the learned Judicial Magistrate, Salem daily at 10.30 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.

In the result, the order passed by the learned Sessions Judge, Mahila Court, Tiruppur in E.C.M.P.No.207 of 2022 dated 01.04.2022 is set aside and the Criminal Revision Petition is accordingly allowed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Sessions Judge,
Mahila Court, Tiruppur
- 2.The Judicial Magistrate,
Salem.
- 3.The Inspector of Police,
Anupparpalayam Police Station,
Tiruppur City.
- 4.The Superintendent,
Central Prison,
Coimbatore.



5. The Public Prosecutor,
High Court, Madras.

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