



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Monday, the Sixth day of June Two Thousand Twenty Two

PRESENT

The Hon`ble Mr Justice G.K. ILANTHIRAIYAN

CRIMINAL ORIGINAL PETITION No.12063 of 2022

KESAVAN

[PETITIONER / ACCUSED]

Vs

THE STATE REP BY
THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KOTTAKUPPAM,
VILLUPURAM DISTRICT.
CRIME NO.27 OF 2021.

[RESPONDENT]

For Petitioner : M/S.M.MACHAVATHARAN Advocate

For Respondent : MR.A.DAMODARAN, Additional Public Prosecutor,

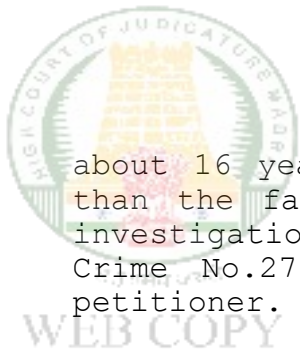
PETITION FOR BAIL 439 Cr.P.C.

ORDER : The Court Made the following order :-

The petitioner, who was arrested and remanded to judicial custody on 30.12.2021 for the offence punishable under Section 354(A) of I.P.C r/w Section 12 of Protection of Children from Sexual Offence Act, 2012, in Crime No.27 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner and the defacto complainant are husband and wife. They have 3 daughters. It is alleged that there was a wordy quarrel between them often, due to which, the defacto complainant left her two elder daughters and went to her parents' house along with her younger daughter. In the absence of the defacto complainant, the petitioner alleged to have been misbehaved with one of his own daughters. Hence, this complaint.

3.The learned counsel appearing for the petitioner would submit that the wife lodged a complaint as against her husband. Even according to the case of the prosecution, the victim girl who is aged



about 16 years was misbehaved by the petitioner who is none other than the father of the victim girl. He further submitted that the investigation was already completed and charge sheet was laid in Crime No.27 of 2021. Hence, he seeks for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor (Crl.Side) would submit that while pending the investigation, the offences have been altered to offences under Sections 498A, 341, 354A of IPC and Section 11(i) r/w Section 12 of POCSO Act, 2012 and Section 4 of TN Prohibition of Harassment of Women Act, 2002 and laid a final report and it is pending for taking cognizance. He had also produced a statement recorded under Section 164 Cr.P.C. A perusal of the statement of the victim girl revealed that when the petitioner was under influence of alcohol, he quarrelled with his wife and also pulled the victim's nighty. Further, the statement revealed that thereafter it was informed to the victim's grand mother and mother and they persuaded the victim girl. Since the petitioner was under influence of alcohol, he had done this thing. Hence, he vehemently opposed for grant of bail to the petitioner.

5.Taking into consideration of the above facts and circumstances of the case and also the respondent police had completed the investigation and filed a final report and also taking note of the fact that the petitioner is in judicial custody from 30.12.2021, this Court is inclined to grant bail to the petitioner.

6. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned **"Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram"** and on further conditions that:-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of four weeks and thereafter, as and when required for interrogation.

[c] the petitioner shall not abscond either during investigation or trial.

[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 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/-
06/06/2022

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 SESSIONS JUDGE
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, VILLUPURAM.

2 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
KOTTAKUPPAM,
VILLUPURAM DISTRICT.

4 THE OFFICER INCHARGE
DISTRICT JAIL, VILLUPURAM.

+1 CC to M/S.M.MACHAVATHARAN Advocate on payment of necessary charges SR.NO.8489

CRL OP.12063/2022

Date :06/06/2022

TA-07/06/2022