



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM

THE HON'BLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.OP.No.12639 of 2022

Jayapal

..Petitioner

Vs.

The State By:-

Inspector of Police,

W8 Thirumangalam All women Police Station,

Chennai

(crime no.13 of 2021)

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Spl.SC.No.126 of 2021 on the file of the Special Court for Exclusive Trial of POCSO Act Cases, Chennai in respect of crime No.13 of 2021 on the file of the respondent police.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.04.2021 for the offences punishable under Sections 376 (A) (B) of IPC and 5(m) r/w 6 of POCSO Act in Spl.SC.No.126 of 2021 on the file of the Special Court for Exclusive Trial of POCSO Act Cases, Chennai in respect of crime No.13 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 13.04.2021 at about 12 hours, the petitioner went into the defacto complainant's house as a friend and asked the baby for getting chocolate to the baby. Then, the defacto complainant's mother gave the child. After one our, the petitioner gave back the child. At that time, the baby was crying and the petitioner escaped after giving the child. Then, the defacto complainant saw the baby in the legs being reddish.



3.The learned counsel appearing for the petitioner would submit that the petitioner and the victim child's grandmother had illegal affair. That apart, there was a money transaction between them. In this regard, the present false complaint has been foisted as against the petitioner as if the petitioner had sexual assault with the victim child aged about one year eleven months. Now, charge sheet has been laid and he is facing trial in Spl.SC.No.126 of 2021 on the file of the Special Court for Exclusive Trial of POCSO Act Cases, Chennai. So far, no witnesses have been examined by the prosecution and it is pending for one and a half years.

4.The learned Additional Public Prosecutor would submit that the petitioner has committed sexual assault on the child aged about one year and eleven months and also produced the statement recorded under Section 164 of Cr.P.C. of mother of the victim child.

5. On perusal of the Section 164 Cr.P.C. statement, revealed that the petitioner is the neighbour and he used to come her house and take child for giving some chocolates. On the date of occurrence, the victim child was crying and found that the victim child had abrasions on her thighs. The learned Additional Public Prosecutor also produced the opinion of medical officer and it revealed that there are abrasions on both thighs externally and hence, there may be possibility of sexual assault.

6. It is seen that the victim child is aged about one year eleven months. There are abrasions on her both thighs. That apart, after completion of investigation, now the trial is pending for the past one year without even examining any witness.

7. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner from the date of his arrest i.e. 15.04.2021, this Court is inclined to grant bail to the petitioner. 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 Special Exclusive Trial For POCSO Act Court, Chennai-8 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 trial court i.e. Special Exclusive Trial For POCSO Act Court, Chennai daily at 10.30 a.m. until further orders.

[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/-

08/06/2022

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 SPECIAL EXCLUSIVE TRIAL
FOR POCSO ACT COURT, CHENNAI-8.

2 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL-2 JAIL, CHENNAI

3 INSPECTOR OF POLICE,
W8, THIRUMANGALAM ALL WOMEN POLICE STATION,
CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

CC to M/S. ILAYARAJA KANDASAMY Advocate on payment of necessary charges Sr.8647

CRL OP.12639/2022

Date :08/06/2022

RVR 09/06/2022