



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2022

CORAM

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

Cr1.OP.No.13069 of 2022

M.Bala Subramaniam @ Bala

..Petitioner

Vs.

The State Represented by,
The Inspector of Police,
W-13 AWPS, Washermenpet, Chennai.
(crime no.05 of 2022)

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in crime No.5 of 2022 pending investigation on the file of the respondent police.

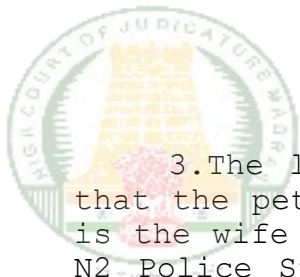
For Petitioner : Mr.P.Srinivasan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.04.2022 for the offences punishable under Sections 376, 506(1) of IPC and 4(1), 5(1)(a) of ITP Act in crime No.5 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the defacto complainant lodged complaint alleging that she is a deserted woman and she has one male child aged about four years. The petitioner was introduced by another friend to the victim. Thereafter, they stayed in a hotel, from where she was administered some drug and when the victim was unconscious, the petitioner had sexual intercourse and also videographed the same. Thereafter, he used to threaten her and had sexual intercourse on several occasions. Hence, the complaint.



3.The learned counsel appearing for the petitioner would submit that the petitioner had business transaction with one, Shivadevi, who is the wife of one, Mr.Vijaykumar, Sub Inspector of Police working in N2 Police Station. There was dispute with regards to their business transaction. As such, the present case has been foisted as against the petitioner. In fact, while approaching the court below for bail, the victim herself voluntarily came before the trial court and filed intervene petition and stated that it is a completely false case and she never lodged any complaint as alleged by the prosecution. Hence, he seeks for grant of bail to the petitioner.

4.The learned Additional Public Prosecutor filed status report and submitted that the petitioner was in possession of two glass perculaters, methamphetamine weighing approximately 7.60 gms, 13 nos. of plastic inhalers which is used to consume the drug - 13 nos, 4 nos. of cell phones, 12 nos. of LSD which is used to stick on tongue and its weight is 0.21 gms and one car bearing registration No.TN 02 AT 9999 Honda Jazz Sedan. Therefore, the Inspector of Police, H-1 Washermenpet Police Station registered a case in crime No.256 of 2022 for the offences under Sections 8(c) r/w 21(b), r/w 22(c), r/w 23(c), 25 of NDPS Act and he was arrested and remanded to judicial custody on 02.04.2022. The petitioner along with victim were travelling in a car. However, the victim was not arrested since she made statement and on recording her statement, the present F.I.R. has been registered. Thereafter, the victim lived with the petitioner and in fact on his compulsion and coercion, she filed intervene petition before the court below and supported the case of the petitioner herein.

5. Though the victim made serious allegations, she was not examined by the respondent so far and no statement was recorded under Section 164 of Cr.P.C. That apart, there are other victims as per the FIR and the respondent failed to examine any of the victims as alleged by the prosecution. Though the petitioner is facing FIR in crime No.256 of 2022 registered for the offences under NDPS Act, insofar as the present case is concerned, 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 XV Metropolitan Magistrate Court, George Town, Chennai 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. and 05.30 p.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 METROPOLITAN MAGISTRATE,
NO.XV, GEORGE TOWN, CHENNAI.

2 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI. [FOR INFORMATION]

3 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

4 THE INSPECTOR OF POLICE,
W-13, AWPS, WASHERMENPET,
CHENNAI.

5 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAI,
CHENNAI DISTRICT.

+1 CC to M/S. P.SRINIVASAN Advocate on payment of necessary charges SR.NO.8606

CRL OP.13069/2022

Date :08/06/2022

TA-09/06/2022