

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.06.2022

CORAM

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

Crl.OP.No.13777 of 2022

Gnanadhurai @ dhurai

..Petitioner

Vs.

State rep. by,
Inspector of Police,
All Women Police Station,
Sirkazhi
crime No.14 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.14 of 2022 pending investigation on the file of the respondent police.

For Petitioner : Mr.S.Shankar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.04.2022 for the offence punishable under Sections 6, 5(m), 10, 9(m) of POCSO Act in crime No.14 of 2022 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that on 01.04.2022 at about 9 a.m., the defacto complainant at the time of giving bath to her three years old child found some white patches in her panty. Due to urgency, she washed the panty and sent the child to school. Since she found white patches in the private part of the child, she took the child next day to the Government Hospital, Tharangambadi, where the child was referred to GH, Poraiyar. When the local nurse i.e. Rubala informed the complainant that there is reddishness over the private part of the child, the complainant enquired with her daughter. At the time, the child told that the petitioner touched the left side chest and the first accused made her to lie over the bed and pressed his General in the private part of the child. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the family members of the child are neighbours. The child used to visit the petitioner's house and the petitioner had taken care of the child and also used to provide food and gift to the child. However, due to previous enmity between the same family members, the false complaint has been lodged against the petitioner. Hence, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police would submit that there are totally two accused in this case and they are father and son. He would further submit that the accused persons had taken the three year old child to a separate place and made sexual assault. Hence, he vehemently opposed to grant bail to the petitioner.

5. On perusal of the statement recorded under Section 164 of Cr.P.C, revealed that the petitioner and another accused i.e. his son had pinched over the private part of the victim aged about three years. Except that allegation, no other allegation as against the petitioner. Though the F.I.R. revealed very serious allegation, it is nothing but after thought.

6. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner, 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 blood related sureties, each for a like sum to the satisfaction of the Special Court under POCSO Act, Nagapattinam 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 stay at Chengalpet and report before the Inspector of Police, Tambaram Police Station, Chengalpet daily at 10.30 a.m. for a period of two weeks and therefore report before the respondent police daily at 10.30 a.m. for a period of two weeks and thereafter report before the respondent police 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/-

15/06/2022

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 COURT UNDER
POCSO ACT, NAGAPATTINAM.

2 THE OFFICER INCHARGE,
SUB JAIL, NAGAPATTINAM.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
SIRKAZHI.

4 THE INSPECTOR OF POLICE,
TAMBARAM POLICE STATION,
CHENGALPET.

5 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S.S.SHANKAR Advocate on payment of necessary charges
SR.NO. 9084

CRL OP.13777/2022

Date :15/06/2022

RW-16/06/2022