



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM

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

CrI.OP.No.14865 of 2022

D.Sarath kumar

..Petitioner/A2

Vs.

State rep by
The Inspector of Police,
All Women Police Station-W-4,
Kilpauk, Chennai
crime No.2 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.2 of 2022 pending investigation on the file of the respondent police.

For Petitioner : Mr.K.Gajendiran

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 20.04.2022 for the offence punishable under Sections 5(L)(M) r/w 6 of POCSO Act in crime No.2 of 2022 on the file of the respondent police, seeks bail.

2. It is the case of the prosecution that the victim girls were sexually assaulted by one, Vinayagam, who is arrayed as A1 in this case, whereas the petitioner is arrayed as A2.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would further submit that there is no statement about A2 in the complaint as well as Section 164 of Cr.P.C. statement, but the respondent implicated the petitioner. Hence, he prays to grant bail to the petitioner.



4. The learned Additional Public Prosecutor appearing for the respondent police submitted that there are totally two accused, in which the petitioner is arrayed as A2. He would further submit that there are two victim girls in this case aged about 13 years and 9 years respectively, and the defacto complainant is their grandfather.

5. On perusal of the F.I.R., revealed that there are two victim girls and they were sexually assaulted by one, Vinayagam who is staying upstairs of the house. He was arrested and remanded to judicial custody. Whereas on perusal of the statement recorded under Section 164 of Cr.P.C. of the first victim i.e. Nishanthi, wherein it is stated that one, Vinayagam committed sexual assault on her. Subsequent to the said statement, she also stated that whenever she stayed under the petitioner's house he also used to give a bad touch on her. On perusal of the second victim's statement recorded under Section 164 of Cr.P.C, revealed that there is no allegation against the petitioner herein. Both the victims categorically stated about the first accused's overt act and he only sexually assaulted the victims. The defacto complainant also lodged complaint as against the first accused. There are specific allegations as against only the first accused. As far as the petitioner, only on the statement recorded from the first victim under Section 164 of Cr.P.C., the petitioner has been implicated as an accused. That apart, the petitioner was arrested and remanded to judicial custody on 20.04.2022.

6. Considering the above facts and circumstances of the case and also considering 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 POCSO Court at 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/-

28/06/2022

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 POCSO COURT,
CHENNAI.

2 THE SUPERINTENDENT,
CENTRAL JAIL, PUZHAL,
CHENNAI.

3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION W-4,
KILPAUCK, CHENNAI.

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+1 CC to M/S. K.GAJENDIRAN Advocate on payment of necessary charges SR.NO. 10142

CRL OP.14865/2022

Date :28/06/2022

RW-29/06/2022