

8IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.07.2022

CORAM

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

CrI.OP.No.14877 of 2022

S.Rajmohan

.. Petitioner/ A1

Vs.

State Rep by
Inspector of Police,
Teynampet, AWPS W-24,
Chennai
crime No.2 of 2021

.. Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Special SC.No.68 of 2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai in respect of crime No.2 of 2021 on the file of the respondent police.

For Petitioner : Mr.R.Ganesan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 28.06.2021 for the offences punishable under Section 506 (i) of IPC and Section 6 of POCSO Act altered into Sections 366, 342, 376(3) and Section 3 r/w 4 of POCSO Act, 354(A) & Section 9 (n) r/w 10 and Section 11(iii) r/w 12 of POCSO Act and taken cognizance under Section 366 of IPC, Sections 4, 10, 12 of POCSO Act in Special SC.No.68 of 2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai in respect of crime No.2 of 2021 on the file of the respondent police, seeks bail

2. The case of the prosecution is that the victim girl is a beggar and she left her family. While being so, the petitioner had given shelter to her. Thereafter, the petitioner misbehaved with the victim girl aged about 15 years and also had penetrative sexual assault on her. Hence, the case.

3. The learned counsel 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 the petitioner is facing trial in Special SC.No.68 of 2022 on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and A2 was granted bail by this Court in CrI.OP.No.22683 of 2021 dated 29.11.2021. Hence, he seeks for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that while the victim girl aged about 15 years was at her home, she was sexually harassed by her adopted father, therefore she left the home. Thereafter, the petitioner, who is also a beggar, gave shelter to her. While being so, the petitioner had penetrative sexual assault on her. He would further submit that the adopted father of the victim has been arrayed as A2.

5. It is seen that there are totally two accused, in which the petitioner is arrayed as A1. Admittedly, the petitioner and the victim girl are beggars and they jointly begged in the public. The victim girl is aged about 15 years and she left her home. Thereafter, the petitioner had given shelter to her, pursuant to which he misbehaved with the victim girl aged about 15 years and had penetrative sexual assault on her.

6. Considering the above facts and circumstances of the case and also the period of incarceration from the date of his arrest i.e. 28.06.2021, 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 learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, 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 trial court viz., Special Court for Exclusive Trial of Cases under POCSO Act, Chennai 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/-
08/07/2022

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, CHENNAI

2 THE INSPECTOR OF POLICE,
TEYNAMPET, AWPS W-24,
CHENNAI.

3 THE SUPERINTENDENT,
CENTRAL PRISON, PUZHAL, CHENNAI

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

+2 CC to M/S.R.GANESAN Advocate on payment of necessary charges
SR.NO.11104

CRL OP.14877/2022

Date :08/07/2022

JPA 11/07/2022