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Crl.O.P.No.17690 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.17690 of 2022

S.Shabeer

... Petitioner

Vs.

State, represented by
Inspector of Police,
W-20, All Women Police Station,
Saidapet, Chennai – 15.
(Cr.No.662 of 2021)

... Respondent

Prayer:

Petition filed under Section 439 of Cr.P.C., seeking to enlarge the petitioner on bail in connection with Spl.S.C.No.70 of 2022 on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and pending trial.

For Petitioner : Mr.Ilayaraja Kandasamy
For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)

O R D E R

The petitioner who was arrested and remanded to judicial custody on 07.08.2021 for the offence under Sections 366, 342,



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354A, 354B, 354D, 506(ii) of I.P.C. and Section 7 r/w.8 and 3 r/w.4 of POCSO Act, 2012 in Spl.S.C.No.70 of 2022 on the file of Special Court for Exclusive Trial of Cases under POCSO Act, Chennai (Crime No.662 of 2021), seeks bail.

2.It is the case of the prosecution that the petitioner and the defacto complainant's minor daughter/ victim developed friendship through Instagram and thereafter the petitioner is alleged to have sent vulgar messages to the victim and threatened her and made her to come out of her home to a Lodge at Thiruvannamalai.

3.The learned counsel appearing for the petitioner would submit that the petitioner has not committed any offence as alleged by the prosecution. He would further submit that it is purely love affair inbetween the petitioner and the victim girl and would further submit that the victim girl is about to attain the age of majority. The learned counsel would further submit that this is the sixth petition seeking bail filed by the petitioner and would further submit that investigation in the case has been completed and the respondent has also filed charge sheet and the petitioner is in prison from 07.08.2021 and prayed for grant of bail to the petitioner.



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4.The learned Government Advocate (Crl. Side) submitted that investigation in the case has been completed and the respondent has filed charge sheet and the same has been taken on file as Spl.S.C.No.70 of 2022 by the Special Court for Exclusive Trial of Cases under POCSO Act, Chennai.

5.On 04.08.2022, when the matter was taken up for consideration, the victim, her parents and the petitioner's parents appeared before this Court. Though the victim girl's father opposed for grant of bail to the petitioner, the victim girl categorically stated that she was forced to give the statement recorded under Section 164 of Cr.P.C. and the victim girl did not reveal any sexual allegation against the petitioner.

6.Further, the petitioner and his parents have filed affidavit stating that the petitioner will not come to Chennai and will not make any attempt to meet or contact the victim girl or her parents and will not make any threat to the victim girl or her parents.

7.In view of the affidavit filed by the petitioner and considering



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the fact that investigation in the case has been completed and charge sheet has also been filed and considering the period of incarceration undergone by the petitioner, I am inclined to grant bail to the petitioner.

8. 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, of whom, one should be a blood related surety, each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and on further condition that:

(a) the petitioner shall not contact the victim girl either directly or through phone or through other social media and shall not interfere with the day to day affairs of the victim girl and shall not make any threat to the victim girl.

(b) 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;

(c) the petitioner shall report before the trial Court i.e., Special Court for Exclusive Trial of Cases under POCSO Act, Chennai, at 10.30a.m. on each and every date of hearing;



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(d)the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e)the petitioner shall not abscond either during investigation or trial;

(f)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]***; and;

(g)if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

9.It is made clear that if any of the aforesaid conditions is violated by the petitioner, the bail granted today (11.08.2022) shall stand automatically vacated, without any further reference to this Court.

11.08.2022

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Speaking Order/ Non Speaking Order
Index: Yes/ No Internet: Yes/ No

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M.DHANDAPANI,J.
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To

- 1.The Special Court for Exclusive Trial of Cases under POCSO Act,
Chennai.
- 2.The Inspector of Police,
W-20, All Women Police Station,
Saidapet, Chennai – 15.
(Cr.No.662 of 2021)
- 3.The Central Prison,
Puzhal,
Chennai.
- 4.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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