



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 14.03.2022

PRESENT

THE HONOURABLE MRS.JUSTICE R. THARANI

Cr1.O.P.(MD)No.4175 of 2022

WEB COPY

Periyasamy

... Petitioner/Petitioner/
Petitioner

Vs.

The State rep.by
The Inspector of Police,
All Women Police Station,
Tuticorin,
Tuticorin District.
(Crime No.47 of 2021).

... Respondent/Respondent/
Respondent

For Petitioner : Mr.V.SELVAKUMAR, Advocate
For Respondent : Mr.R.SURESH KUMAR
Government Advocate

PETITION FOR BAIL Under Section 439 of Cr.P.C.,

PRAYER:- For Bail in Cr.No.47 of 2021 on the file of the respondent police.

ORDER: The Court made the following order:-

The petitioner/Sole Accused herein, who was arrested on 14.12.2021 for the alleged offence under Sections 5(1) r/w 6 of POCSO Act and Section 506(ii) of IPC, in Crime No.47 of 2021, on the file of the respondent police, seeks bail.

2.The allegation against the petitioner is that he sexually assaulted the minor child. Hence, the case in Crime No.47 of 2021 has been registered.

3. The petitioner filed a bail application before the Special Court in Cr1.M.P.No.1615 of 2021. Since the same was dismissed, the petitioner has come forward to this Court seeking bail.

4. On the side of the petitioner, it is stated that the alleged occurrence is said to have taken place on 13.10.2021. The occurrence is said to have come to the knowledge of the defacto complainant on 26.10.2021. But the FIR was registered only on 10.11.2021. Only on previous enmity, a false case has been foisted against the petitioner. The petitioner is residing in the neighbouring house. There is no possibility of a delay in having knowledge of the occurrence. The petitioner is in custody from 14.12.2021 onwards, that is for the past 90 days. He is working in a private company in Chennai and prayed the petitioner to be released on bail.



5. On the side of the respondent, it is stated that the age of the victim girl is only 13 years. Her date of birth is 29.07.2009. She stayed in an Ashram by name Anbu Ashram. Her father and mother were separated. The victim was studying 7th standard. The petitioner abused her by threatening her. The girl was left in the custody of the father and later the girl was admitted in Anbu Ashram. There she told the incident to the Teacher and from the Teacher, the defacto complainant came to know about the occurrence and then she lodged the complaint. The offence is serious in nature and against the society and prayed the petition to be dismissed.

6. It is seen that the petitioner is in custody from 14.12.2021 for the past 90 days. It is seen that the charge-sheet not yet filed. Hence, the petitioner is released on bail under Section 167(2) Cr.P.C.

7. Accordingly, this Criminal Original Petition is allowed. The petitioner is directed 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) Thoothukudi 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. until further orders.

[c]the petitioner shall not abscond either during investigation or trial.

[d]the petitioner shall not tamper with the 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]**. If the petitioner is not complying with the conditions, the bail granted by this court shall stand cancelled automatically, without further reference to this Court.

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

14/03/2022

/ TRUE COPY /

16/03/2022

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR EXCLUSIVE TRIAL OF CASES
UNDER POCSO ACT, THOOTHUKUDI.
- 2 THE OFFICER INCHARGE
DISTRICT JAIL, PERURANI,
TUTICORIN DISTRICT.
- 3 THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TUTICORIN,
TUTICORIN DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER

IN

CRL OP (MD) No.4175 of 2022

Date :14/03/2022

SA/PN/SAR.3/16.03.2022/3P/5C