



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Date : 19/04/2022

WEB COPY

PRESENT

The Hon`ble Mr.Justice **K.MURALI SHANKAR**

CRL OP(MD) . No.7195 of 2022

Vimalbose

... Petitioner/Sole Accused

Vs

The State represented by
The Inspector of Police,
All Women Police Station,
Palayamkottai,
Tirunelveli.
(Crime No.6 of 2022)

... Respondent/ Complainant

For Petitioner : Mr.D.Shanmugaraja Sethupathy
for Mr.M.Murali,
Advocate.

For Respondent : Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor.

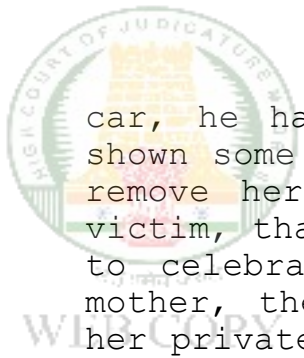
PETITION FOR BAIL Under Section 439 of Cr.P.C.

PRAYER :-For Bail in Crime No.6 of 2022 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner/Sole accused, who was arrested and remanded to judicial custody on 23.02.2022 for the offences punishable under Sections 9(m), 10, 11(1), 11(3) and 12 of Protection of Children from Sexual Offences Act, 2012 and Section 506(2) IPC, in Crime NO.6 of 2022 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the defacto complainant is studying 7th standard, in a private school, that the petitioner is the friend of her father and after the demise of her father, the petitioner extended help to the family of the defacto complainant, that the petitioner used to talk with victim over phone and has given gifts to her, that the petitioner has also used to kiss the defacto complainant sometimes, that in the month of July 2020, when the victim was taken to the Arasan Bakery by the petitioner in his



car, he has touched her breast inappropriately, that he has also shown some obscene picture in his mobile and insisted the victim to remove her dress, but the same was resisted and thwarted by the victim, that on 27.09.2021, when the victim went to Rajeshwari Nagar to celebrate birthday of her pet dog, in a car belongs to her mother, the petitioner came there and kissed her and also touched her private part, that she immediately pushed his hand and came out of the car, that on 04.12.2021, when the victim was in her mother's shop, as her mother was not well and at about 09.45 p.m., when she was closing the shop, the petitioner came and pinched on her cheek and also placed his hands on her chest, that the victim was put to mental torture and that she was not in a position to concentrate on her studies, that the petitioner had threatened that in case if she discloses the above incidents, he would kill her mother, that on 21.02.2022, when the victim girl and her brother were proceeding in their mother's car, the petitioner had followed their car and came in such a way to dash against their car and that thereafter, while she was attending online class, had contacted the Child Help line Number and gave her complaint.

3.The petitioner's case is that the complaint was lodged at the instigation of the mother of the victim with *malafide* intention to wreak vengeance against the petitioner, that the mother of the victim and the petitioner were known to each other for quite long time through her husband, who was the close friend of the petitioner, that after the demise of the victim's father, the petitioner and the victim's mother have been maintaining close relationship, that subsequently there arose dispute between them, and as a result, the victim's mother has lodged a false and motivated complaint with Palayamkottai Police Station and the case was registered in Crime No.873 of 2021, for the offences under Sections 294(b), 352, 354 and 506(2) IPC r/w Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2002, that the petitioner was arrested on 12.12.2021, that when the petitioner has moved for bail before the Magistrate Court, the victim's mother has filed an intervening petition opposing for grant of bail, that inspite of their intervention, the petitioner was released on bail, that thereafter at the influence of the victim's mother, charge sheet was hurriedly filed on 27.12.2021, that the victim's mother has filed a petition for cancellation of bail on the ground that the petitioner was trying to intimidate her children and the said petition was also dismissed on 03.03.2022 and that the mother of the victim having failed in her attempt, with intention to keep the petitioner in prison for longer period, has lodged the present complaint.

4.No doubt, the earlier application for bail filed by the petitioner in Crl.O.P.(MD)No.5912 of 2022 was dismissed by this Court vide order dated 04.04.2022.

5.The learned Additional Public Prosecutor would submit that investigation is almost completed and they are going to file a charge sheet shortly and that except the case registered at the



instance of the victim's mother, the petitioner is not having any other previous cases.

6.Considering the above facts and circumstances and also the facts that the petitioner is in judicial custody from 23.02.2022, that investigation is almost completed as stated by the learned Additional Public Prosecutor and that the petitioner is not having any bad antecedents, this Court is inclined to grant bail to the petitioner subject to the following conditions:

7.Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for POCSO Act Cases, Tirunelveli.

(i)the sureties shall affix their photographs and left thumb impression in the surety bond and the Sessions Judge/concerned court may obtain a copy of their Aadhar card or Bank Pass Book to ensure their identity;

(ii)the petitioner shall report before the respondent police daily at 10.30 a.m., for a period of one week and thereafter report before the Inspector of Police, Anna Nagar Police Station, Chennai, daily at 10.30 a.m., until further orders;

(iii)the petitioner shall not tamper with evidence or witness;

(iv)the petitioner shall not abscond during trial;

(v)On breach of any of the aforesaid conditions, the learned Sessions Judge/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 Sessions Judge/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

(vi)If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

sd/-

19/04/2022

/ TRUE COPY /

19/04/2022

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



TO

- 1 THE SESSIONS JUDGE,
SPECIAL COURT FOR POCSO ACT CASES,
TIRUNELVELI.
- 2 THE INSPECTOR OF POLICE
ALL WOMEN POLICE STATION, PALAYAMKOTTAI,
TIRUNELVELI.
- 3 THE SUPERINTENDENT,
CENTRAL PRISON, PALAYAMKOTTAI, TIRUNELVELI DISTRICT.
- 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

COPY TO:

THE INSPECTOR OF POLICE,
ANNA NAGAR POLICE STATION,
CHENNAI.

+1. CC to Mr.M.MURALI, Advocate SR.No.3477.

ORDER

IN

CRL OP(MD) No.7195 of 2022

Date :19/04/2022

CSM

MK/PN/SAR.III/19.04.2022/4P/7C