



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 11/01/2022

WEB COPY

PRESENT

The Hon'ble Mr.Justice G.ILANGO VAN

Cr1.OP(MD)No.20328 of 2021

Muthukumar

... Petitioner/Sole Accused

Vs.

State rep.by
The Inspector of Police,
All Women Police Station,
Thiruchendur,
Thoothukudi District.
(In Crime No.24 of 2021)

... Respondent/Complainant

For Petitioner : M/s.P.M.Vishnuvarthanan, Advocate

For Respondent : M/s.R.Meenakshi Sundaram
Additional Public Prosecutor

PETITION FOR BAIL under Sec.439 of Cr.P.C

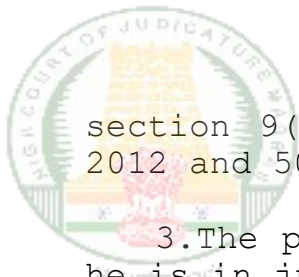
PRAYER :-

For Bail in Crime No.24 of 2021 on the file of the Respondent Police.

ORDER : The Court made the following order :-

The petitioner, who is arrayed as accused was arrested on 20/11/2021 and remanded to judicial custody for the offences punishable under section 9(m), 10 of Protection of Child from Sexual Offences Act, 2012 and 506(i) IPC, in Crime No.24 of 2021 on the file of the respondent police, seeks bail.

2.The case of the prosecution is that the petitioner alleged to have committed the offence of penetrative sexual assault on the victim girl, who was aged about 10 years, on 03/11/2011. In pursuance of the above said complaint given by the de-facto complainant, the case has been registered for the offence under



section 9(m), 10 of Protection of Child from Sexual Offences Act, 2012 and 506(i) IPC.

3.The petitioner has been arrested on 20/12/2021 and ever-since, he is in judicial custody for 21 days. Seeking bail, this petitioner moved bail before the trial court, in CrI.MP No.1457 of 2021 and that came to be dismissed, on 13/12/2021 observing that during the course of examination under section 164 Cr.P.C, the victim girl, who was aged about 10 years on the date of the occurrence has given a clear picture, the act that has been committed by the petitioner. So on that ground, it was dismissed.

4.Now the case of the petitioner is that the de-facto complainant lodged a complaint on 07/01/2021, which was registered in Crime No.229 of 2021 and this complaint has been registered on 10.01.2021 in Crime No.24 of 2021 for the involvement of the offence on 03/11/2021. According to the learned counsel appearing for the petitioner, if really this occurrence has taken place as in the complaint, dated 07.11.2021 the incident to the present crime, would have been brought to the notice of the enquiry officer, who registered the above said crime. Even during the course of investigation, the above said Crime No.229 of 2021, no fact was alleged or disclosed that this petitioner has committed penetrative sexual assault on the victim girl. So according to him, it is purely a foisted case.

5.The entire CD file has been called for and perused. Originally before registering the case in Crime No.229 of 2021, enquiry was undertaken in CSR No.482 of 2021. As mentioned earlier, during the course of enquiry in the above said CSR stage, no allegation has been made. So the present FIR has been registered on 10/11/2021.

6.The learned counsel appearing for the petitioner would submit that on the date of alleged occurrence, as mentioned above, another complaint has been lodged and enquiry was undertaken. As stated above, no disclosure was made to the enquiry officer. According to him, the offence alleged in the FIR would not have been taken at all. Whatever it may be the argument advanced on the side of the petitioner is that the fact remains that the victim girl has in clear statement implicated this petitioner in this crime. No doubt, on the date of the enquiry in connection with Crime No.229 of 2021, no such disclosure was made by the de-facto complainant or by the victim about this occurrence. No doubt, it creates some doubt and it is a matter for investigation and for that specific purpose only, the Investigating Officer was asked to be present along with the CD file and she was also present. She did not make any enquiry with regard to the specific issue as to whether during the course of enquiry in connection with Crime No.229 of 2021, whether the occurrence took place was disclosed.



7. Even though the learned counsel appearing for the petitioner has stated that this is a purely foisted case, considering the seriousness of the allegation that has been made against this petitioner, the veracity of the same can be brought light only during the course of investigation. As mentioned by the Special Court, during the course of 164 Cr.P.C statement, the victim girl has implicated this petitioner. So I am of the considered view that since the investigation in the preliminary stage, if the petitioner is released on bail, there is every likelihood of tampering the evidence.

8. In view of the above, this court is not inclined to enlarge the petitioner on bail and accordingly, this criminal original petition is liable to be dismissed.

9. In the result, this criminal original petition is **dismissed**.

Sd/-
11/01/2022

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/ /2022
Sub-Assistant Registrar (C.S.II)
Madurai Bench of Madras High Court,
Madurai - 625 023.

ER

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 INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
THIRUCHENDUR, THOOTHUKUDI DISTRICT.
2. THE OFFICER INCHARGE,
PERAVOORANI JAIL, THOOTHUKUDI.
3. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

ORDER
IN
CRL OP(MD) No.20328 of 2021
Date :11/01/2022