



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.12.2022

PRESENT

WEB COPY

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.O.P (MD) No.21076 of 2022

Ezhilan

...Petitioner/Sole Accused

-VS-

State rep.by
The Inspector of Police,
All Women Police Station,
Thiruverumbur,
Trichy District.
(in Crime No.30 of 2022)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 438 of Cr.P.C, praying to enlarge the petitioner on bail in the event of his arrest by the respondent Police with respect to Crime No.30 of 2022.

For Petitioner : Mr.S.Mohammad Kasim, Advocate

For Respondent : Mr.A.Albert James
Government Advocate (Crl.side)

O R D E R

The petitioner, who apprehends arrest at the hands of the respondent Police for the offences punishable under Sections 9(m) and 10 of POCSO Act in Crime No.30 of 2022 on the file of the respondent Police, seeks anticipatory bail.

2.The case of the prosecution, as per the de-facto complainant, Bhuvaneswari, is that the accused, who is a stationary shop owner, had called her minor daughter into his shop and had misbehaved with her by inappropriately touching her private parts. Hence, the case.

3.The learned Counsel for the petitioner would submit that the petitioner is an innocent and a false case has been foisted against him. He would submit that the de-facto complainant is none other than the relative of one Muthu Pandi, who is a notorious offender. He had murdered one Sathish, son of one Banu Rekha, and he is an



accused in that case in Cr.No.221 of 2021. The petitioner is having a shop in the locality, he has given the CCTV footage of the occurrence to the Police. Further, the petitioner has also posted certain social media content against the said Muthu Pandi and Sathish in Facebook under the title, "Kalachara Seeralivum Kathikuthum", on 01.07.2022. The family members of the said Muthu Pandi were antagonized against the petitioner, since the petitioner had given the details about the involvement of Muthupandi in the crime and thereby, they had instigated her sister to give a false complaint using her minor daughter. He would submit that no such incident had happened and that only to wreck vengeance, a false complaint has been given.

4.The learned Counsel for the petitioner would submit that this is a second application for anticipatory bail and the earlier application was dismissed on 04.11.2022. He would submit that at that relevant point of time, the petitioner was unable to putforth his submissions in an effective manner and furnish all these details.

5.The learned Government Advocate (Crl.side) would submit that petitioner, who is a stationery shop owner, had called the de-facto complainant's minor daughter into his shop and had misbehaved with her. He opposes to grant anticipatory bail.

6.Taking into consideration the facts and circumstances of the case and on perusing the 164 Cr.P.C. statement of the victim girl and also the FIRs in Cr.No.221 of 2022 and Cr.No.30 of 2022, this Court is inclined to grant anticipatory bail to the petitioner with certain conditions.

6.Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the learned Mahila Court (Magistrate Level) Trichy District, on condition that the petitioner shall execute 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] the petitioner and 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 everyday at 10.30 a.m., for a period of three weeks and thereafter, every Saturday at 10.30 am until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.



[d] the petitioner shall not abscond 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/-

09/12/2022

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/12/2022

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

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TO

1. THE JUDGE, MAHILA COURT,
(MAGISTRATE LEVEL), TRICHY DISTRICT.
2. -DO- THROUGH
THE CHIEF JUDICIAL MAGISTRATE,
TRICHY DISTRICT.
3. THE INSPECTOR OF POLICE,
ALL WOMEN POLICE STATION,
TIRUVERUMBUR DISTRICT.
4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT,
MADURAI.

+1. CC to M/S.MOHAMMAD KASIM S Advocate SR.No.14615

ORDER

IN

CRL OP(MD) No.21076 of 2022

Date :09/12/2022