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CrI.O.P.No.8582 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

CORAM:

THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN

CrI.O.P.No.8582 of 2022

Shivasankar Baba @ C.N.Sivasankaran
Vs.

.. Petitioner

State rep. by
The Inspector of Police,
CBCID, OCU-II, Egmore,
Chennai.
(Crime No.4 of 2021)

.. Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.4 of 2021 on the file of the Respondent police.

For Petitioner : M/s.Gupta & Ravi

For Respondent : Mr.R.Muniyapparaj
Additional Public Prosecutor



ORDER

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The petitioner, was arrested and remanded to judicial custody in Crime No.4 of 2021, on the file of the respondent police on 11.02.2022 for the alleged offences punishable **under Sections 376, 366-A, 506(I) IPC and 5(f) read with 6 of the POCSO Act, Section 5(l) read with 6 of POCSO Act, Section 9(l) read with Section 10 of POCSO Act and Section 6 read with Section 17 of the Protection of Children from Sexual Offences Act, 2012.**

2. It is a case of sexual harassment of minor girl alleged to have happened between 2013 and 2015. The *de facto* complainant has narrated in her complaint how this petitioner and others have sexually exploited her including aggravated penetrative sexual assault committed on her while she was and in-mate in the hostel run by the first petitioner. From the complaint this Court finds that the *de facto* complainant had left the hostel of the first petitioner in the year 2015 and continued to pursued her higher studies elsewhere and got employment in a IT company. While so, in the month of December 2021 she has given a complaint against the petitioner and other accused making allegation of sexual harassment and aggravated penetrative



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sexual assault while she was minor girl and staying in the school hostel run by the petitioner. The reason for the delay as stated in the FIR is that she fearing the influence of the first petitioner and disgrace did not disclose the matter to the outer world. Later when she came to know that first petitioner was arrested by CBCID, she got the courage to give this complaint on 13.12.2021 narrating the sexual harassment and assault incidents occurred 7 to 8 years ago.

3. The learned counsel appearing for the petitioner stated that the petitioner was arrested on 16.06.2021 in Crime No. 1 of 2021 and subsequently at the interval of one month regularly one case was registered against this petitioner and he was shown formal arrest in each case much later after registering the complaint with an ulterior design. As of today, against this petitioner there are 8 cases of similar nature pending and the present case is the 8th case which was registered on 15.12.2021 and the petitioner was formally shown arrest on 08.02.2022. Except in one case in none other case the respondent has filed final report for the petitioner in 4 cases statutory bail was granted and in 2 cases the Court below has granted regular, one case were final report filed, the Hon'ble Supreme Court of India

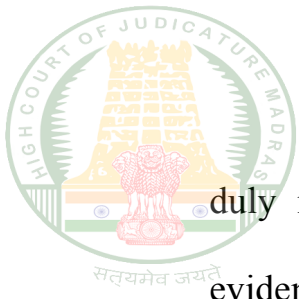


after considered all the cases foisted against this petitioner by the prosecution, has granted bail vide order dated 08.04.2022.

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4. Per contra the Additional Public Prosecutor submitted that, the allegations made against the petitioner in this case and the statement of the victim girl recorded under Section 164(5) of Cr.P.C, place this case on different footing. If the petitioner released on bail he will try to influence the victim girl and tamper evidence.

5. Considering the submissions made by the learned counsel for the petitioner and the learned Additional Public Prosecutor, this Court finds that the petitioner had been brought under scanner of CBCID about 10 months ago for his alleged illegal activity and had arrested him on 16.06.2021 at Delhi and pursuing the investigation. But except in one case they have not filed final report within the statutory period prescribed. However, by registering one case after another the petitioner been in Judicial custody for about 10 months. As far as the facts of the present case is concerned, since the *de facto* complainant had come forward to gave her complaint after 7 years and also given a statement before the Magistrate



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duly recorded under Section 164(5) of Cr.P.C which is under law of evidence can be considered both for corroboration and contradiction, this Court holds that the petitioner entitle for bail on the same condition imposed by the Hon'ble Supreme Court of India in SLP No.2028 of 2022 dated 01.12.2021.

6. Since, the learned Additional Public Prosecutor expresses his apprehension that the petitioner may flee from the country, to ensure that the petitioner co-operate for the investigation and trial, as additional condition this Court direct the petitioner to surrender his passport before the POCSO Court, Chengalpattu where the case against him is likely to be tried. Further he shall not leave the state of Tamil Nadu without prior intimation about his place of visit and dates to the Investigating Officer.

7. Accordingly, the petitioner is ordered to be released on bail subject to the following conditions;

(a) the petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with two sureties, each for a like sum to the satisfaction of the learned **Sessions Court, Special Court for POCSO Act, Chengalpattu.**



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(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report before the Investigating Officer as and when required for interrogation and the petitioner shall surrender his passport before the POCSO Court, Chengalpattu where the case against him is likely to be tried. Further he shall not leave the state of Tamil Nadu without prior intimation of his place of visit and dates to the Investigating Officer;

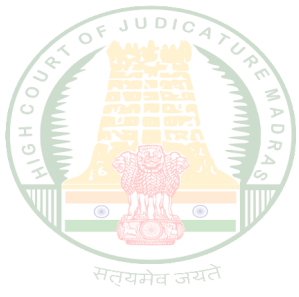
(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) on breach of any of the aforesaid conditions, the learned Judicial 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.

20.04.2022

Sma/Dsn



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To

1. The learned Sessions Judge,
Special Court for POCSO Act,
Chengalpattu.
2. The Inspector of Police,
CBCID, OCU-II, Egmore,
Chennai.
3. The Superintendent,
Central Prison, Puzhal, Chennai.
4. The Public Prosecutor,
High Court, Madras.



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Dr.G.JAYACHANDRAN,J.

Dsn/Sma

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