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Crl.O.P.No.17265 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.07.2022

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.No.17265 of 2022

Jothivel

...Petitioner

Vs.

State rep. by
The Inspector of Police,
All Women Police Station,
Virudhachalam,
Cuddalore District.
Crime No.11 of 2021

..Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Spl.S.C.No.4 of 2022 pending trial on the file of the Learned Special Judge under POCSO Act cases at Cuddalore.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 09.05.2021 for the offences punishable under Sections **5(m) read with Section 6 of POCSO Act** in Crime No. 11 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, the petitioner had forcibly taken the victim girl to the agricultural field and thereby committed sexual assault on her. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. That apart, the petitioner has been suffering incarceration from 09.05.2021. Therefore, he prays to grant bail to the petitioner.

4. The learned Additional Public Prosecutor would submit that the petitioner was detained under goondas and subsequently the detention was set aside by this Court in H.C.P.No.1031 of 2021. He further submitted that the respondent had completed the investigation



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and filed final report in Spl.S.C.No.4 of 2022. However, he vehemently opposed grant of bail to the petitioner.

5. On perusal of the statement of the victim girl recorded under Section 164 of Cr.P.C revealed that the petitioner lied down on the victim girl and there is no sexual assault.

6.Considering the facts and circumstances of the case and also considering the period of incarceration undergone by the petitioner from the date of arrest ie., from 09.05.2021, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered 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 **Special Judge Under POCSO Act Cases at Cuddalore** and on further conditions that:

[a] the sureties shall affix their photographs and Left Thumb



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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 trial Court twice daily at 10.30.a.m., and 04.30.p.m., until further orders;

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

[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 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.

25.07.2022

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To

1. Special Judge Under POCSO Act Cases,
Cuddalore.
2. The Inspector of Police,
All Women Police Station,
Virudhachalam,
Cuddalore District.
3. Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

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