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Crl.O.P.No.19745 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.11.2022

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Crl.O.P.No.19745 of 2022

Arun Kumar,
S/o. Dhandayudhapani

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
G-3 Police Station,
Kilpauk, Chennai.

Now transferred to
W-4 All Women Police Station,
Kilpauk, Chennai.
(Crime No.286 of 2021)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.286 of 2021 on the file of respondent police.

For Petitioner : Mr.R.Thamarai Selvan

For Respondent : Mr.S.Balaji,
Govt. Advocate (Crl.Side.)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 21.07.2021 for the alleged offence under Sections 366 of I.P.C. r/w 4 & 3(a) & 8 and 7 of the POCSO Act in Crime No.286 of 2021 on the file of the respondent police, seeks bail.

2. The case of prosecution is that the defacto complainant's minor daughter, who was working as a Caretaker went missing. Later, it was found that the petitioner along with other accused persons kidnapped and sexually assaulted the victim girl, who is aged about 16 years for two days. Hence, the complaint.

3. The learned counsel appearing for petitioner submitted that the daughter of defacto complainant had a love affair with the first accused Vicky @ Vignesh and as a friend of A1, this petitioner accompanied him on the date of alleged occurrence. But, he was falsely implicated as if he caused sexual assault to the victim girl. He would submit that investigation almost completed and charge sheet was filed and the same



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was taken on file in Spl. S.C.No.177 of 2021 on the file of Special Court for Exclusive Trial of cases under POCSO Act, Chennai. He would further submit that this is the third petition praying for bail and he is in jail for one year and four months. He would also submit that he is a B.B.A. Graduate and after completing of degree, he was working in ICICI bank as collection agent and he has been falsely implicated in this case and he is ready to abide any condition imposed by this court. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that charge sheet was filed and the trial is fixed on 11.01.2023. He would also submit that if he is released on bail, he will hamper the investigation and tamper the evidence. Hence, he vehemently opposed to grant bail to the petitioner.

5. Considering the submissions of both sides, and on perusal of records, it reveals that the petitioner is ranked as A2, he is in judicial custody for one year and four months, investigation almost completed, 161 statement was recorded and charge sheet was filed. Admittedly, the petitioner is a friend of A1, who accompanied him on the date of alleged



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occurrence. Thereafter, now trial is fixed on 11.01.2023 and he is a permanent resident of Chennai and hence, there is no possibility of absconding. Therefore, this Court is inclined to enlarge the petitioner on bail.

6. Accordingly, the petitioner is ordered to be released on bail on condition that the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, one of the surety must be a blood surety, each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Chennai and on further conditions that:-

[a] 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 every Wednesday at 10.30 a.m. until the disposal of trial and he shall not have any communication with minor victim girl, besides he shall appear before the trial court regularly;

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



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[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.

09.11.2022

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To

1. The Special Court for Exclusive
Trial of Cases under POCSO Act,
Chennai.
2. The Superintendent of Prison,
Central Prison,
Puzhal, Chennai.
3. Inspector of Police,
W-4 All Women Police Station,
Kilpauk, Chennai.
4. The Public Prosecutor,
High Court of Madras, Chennai.



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T.V. THAMILSELVI, J.

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