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Crl.O.P.Nos.20085 & 20141 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2022

CORAM

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

Crl.O.P.Nos.20085 & 20141 of 2022

Balachandran ... Petitioner in Crl.O.P.No.20085 of 2022

S.Ramakrishnan ... Petitioner in Crl.O.P.No.20141 of 2022

Vs.

The State represented by,
The Inspector of Police,
Kottur Police Station,
Pollachi – 642 001.
Crime No.305 of 2022.

... Respondent both Crl.O.P.s'

Common Prayer: Criminal Original Petitions filed under Section 439 of Cr.P.C., pleased to grant bail to the petitioners in Crime No.305 of 2022, pending investigation on the file of the respondent police.

In all Crl.O.P.s'

For Petitioners : Mr.C.Veeraraghavan

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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COMMON ORDER

The petitioners, who were arrested and remanded to judicial custody on 30.07.2022 for the offences punishable under Sections 9(1), 9(f), 10, 11(1), 11(4) and 12 of POCSO Act, 2012, in Crime No.305 of 2022 on the file of the respondent police, seek bail.

2. The case of the prosecution as per the complaint of one Deepa, Social Worker is that the accused A1, who is a Botany Teacher and A2, who is a Physics Teacher with sexual intent had inappropriately touched the private parts of the victim girl, who was studying 12th standard at SC Welfare Higher Secondary School. Hence, the complaint.

2. The learned counsel appearing for the petitioners would submit that the petitioners, who is arrayed as A1 and A2, are respectively the Botany and Physics teachers working in the SC Welfare Higher Secondary School and the petitioners, other than having reprimanded the victim for not studying well, have not committed any offence. Whereas, the victim has given a false complaint to the Social Worker, based on which, a case has



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been registered. He would also submit that the petitioners are in custody from 29.07.2022 i.e., for the past 58 days and the maximum sentence as per the charges can only be for 7 years. He would further submit that the fact remains that it is a false complaint, the other students, who are the class mates of the victim, have conducted protest on the next day seeking for release of the petitioners. He would further state that the petitioners have been fixed in this case and the petitioners have also been suspended from the service. Therefore, he prays for grant of bail to the petitioners.

3. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioners, who are the Botany and Physics teachers, have with sexual intent misbehaved with the victim girl. However, he would submit that during the enquiry, none of the other students have given any complaint as against the petitioners. He would further submit that the investigation is pending. Therefore, he vehemently opposed to grant bail to the petitioners.



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4. Heard both the learned counsel and perused the materials available on record.

5. Taking into consideration of the facts and circumstances of the case, the submissions made by the learned counsel and also the fact that it is not the case of penetrative sexual assault and also there was a protest by the other students to release the petitioners, and also the period of incarceration, this Court is inclined to grant bail to the petitioners.

6. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore**, 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 petitioners shall stay at Tiruvannamalai and report before the Inspector of



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Police, Town Police Station, Tiruvannamalai daily at 10.30 a.m., and 05.30 p.m., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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 abscond, a fresh FIR can be registered under Section 229A IPC.

26.09.2022

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To

1. The Special Court for Exclusive Trial of Cases under POCSO Act,
Coimbatore.
2. The Inspector of Police,
Kottur Police Station,
Pollachi – 642 001.
3. The Superintendent,
Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.



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