



Crl.O.P.No.22881 of 2022

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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.No.22881 of 2022

K.Kesavan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Thirukovilur AWPS,
Kallakurichi District.
(Crime No.8 of 2022)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, in Spl.S.C.No.106 of 2022 on the
file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases
under POCSO Act, Villupuram.

For Petitioner : Mr.N.Manoharan

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

ORDER



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The petitioner, who was arrested and remanded to judicial custody on 03.04.2022 for the offences punishable under Sections 366, 342, 354A, 294(b), 506(ii) IPC and Sections 4 r/w 18 of the Protection of Children from Sexual Harassment Act, 2002 in Crime No.8 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the final report is that the petitioner with sexual intent had taken the victim girl aged 3 years into a sugar cane field and had removed her pants and attempted to commit penetrative sexual assault on her. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and due to political enmity, the case has been foisted against the petitioner. He would further submit that the victim girl is alleged to be 3 years old and as per the statement recorded under Section 161 of Cr.P.C from the victim girl, she is alleged to have stated that the petitioner inappropriately touched her private part. Thereafter, the victim was taken to the learned Judicial Magistrate for recording



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statement under Section 164 of Cr.P.C where the victim has not stated anything. In the statement under Section 161 of Cr.P.C., the victim has not stated as if the petitioner attempted to commit any penetrative sexual assault on her. Whereas the grandmother has given an exaggerated statement. Further the grandmother is stated to be an eyewitness to the occurrence, she has not preferred any complaint and the complaint has been preferred by the victim's father who is antagonized to the petitioner on account of political enmity. He would submit that the investigation has been completed and the case has been taken up for trial in Spl.S.C.No.106 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram. He would further submit that the petitioner has to engage a counsel to conduct the case and the petitioner also undertakes not to enter into the Village till the completion of trial. He would further submit that the petitioner is ready to abide by any stringent condition imposed by this Court and he is also ready to co-operate for speedy disposal. Hence, he opposed for grant of anticipatory bail to the petitioner.



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4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had attempted to commit penetrative sexual assault on the victim girl. He would further submit that the case has been taken up in Spl.S.C.No.106 of 2022 and posted on 29.09.2022 for examination of L.W.1 to L.W.3. Hence, he vehemently opposed for grant of anticipatory bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the materials available on record including the final report.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner and also considering the period of incarceration suffered by the petitioner, 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.25,000/- (Rupees Twenty Five**



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thousand only) with two sureties, each for a like sum to the satisfaction of the learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Villupuram, 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 not entered into the jurisdiction limit of the respondent Police. The petitioner shall report before the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram daily at 10.30 a., for a period of one week and thereafter all the hearing dates at 10.30 a.m., without fail.

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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



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A.D.JAGADISH CHANDIRA., J.

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

vkx

To

1. The Sessions Judge, Special Court for Exclusive Trial of Cases under
POCSO Act, Villupuram.
2. The Inspector of Police,
All Women Police Station,
Thirukovilur AWPS,
Kallakurichi District.
3. The Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras.

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