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CrI.O.P.No.23071 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.10.2022

CORAM

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

CrI.O.P.No.23071 of 2022

R.Udhayakumar

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Melmaruvathur All Women Police Station,
Chengelpattu District.

(Crime No.10/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail pending investigation in connection
with the Crime No.10 of 2022 on the file of the respondent Police.

For Petitioner : Mr.B.Devakumar
For Respondent : Mr.C.E.Pratap
Government Advocate (CrI.Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 12.08.2022 for the offences punishable under Sections 376(3), 376(2)(n) of IPC and Sections 5(1), 5(j)(ii) r/w 6 of POCSO Act, in Crime No.10 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the petitioner and the victim girl are neighbours. When the victim girl are studying 8th standard, the accused sexually harassed the victim girl by compelling to have a love affair with him. Due to his compulsion, she started talked with the accused. The accused has threatened and committed penetrative sexual assault on her repeatedly and made her pregnant. When the victim girl was 5 months pregnant, he kidnapped the victim girl from the lawful guardianship and married her in a nearby Temple. Thereafter, under the guise of marriage, he has committed penetrative sexual assault on her repeatedly. On 02.09.2021, the victim girl has delivered a male child and thereafter, the victim girl and the accused lived together at her parental home and subsequently both shifted to rental home at Guduvanchery. The accused has committed



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aggravated penetrative sexual assault on her and made her again pregnant.

Thereafter, the accused has quarrelled with the victim girl and left her and married another woman. Hence the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner and the victim girl are neighbours and that they were having relationship and they have grown up together. The petitioner and the victim girl, without understanding the consequences and rigors of the POCSO Act, had entered into a physical relationship, due to which, the victim girl got pregnant. Thereafter, the marriage was performed in a nearby temple and both lived together in her parental home and later, on the complaint, a case has been registered. He would further submit that the major part of the investigation is over and even in the 164 statement recorded from the victim girl, she has admitted that they were living together. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner had sexually assaulted the victim and therefore, the petitioner was arrested by the respondent Police on 12.08.2022. He would also submit that the 164 statement has also been



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recorded from the victim. Hence, he opposed to grant 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 164 statement recorded from the victim girl.

6. Taking into consideration the facts and circumstances of the case and taking note of the 164 statement recorded from the victim girl that there is no averment of sexual assault as against 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 thousand only)** with **two sureties**, for a like sum to the satisfaction of the **learned Sessions Judge, Special Court for Exclusive Trial of cases under POCSO Act, Chengelpattu**, and on further conditions that:

[a] the sureties shall affix their photographs and



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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 repondent Police, daily at 10.30 a.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 abscond, a fresh FIR can be registered under Section 229A IPC.

12.10.2022

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To

1. The Sessions Judge,
Special Court for Exclusive Trial of cases under POCSO Act ,
Chengelpattu.
- 2.The Inspector of Police,
Melmaruvathur All Women Police Station,
Chengelpattu District.
- 3.The District Jail,
Chengelpattu.
- 4.The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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