



Crl.OP.No.23711 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2022

CORAM

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

Crl.OP.No.23711 of 2022

Karthi

...

Petitioner

Vs

State rep by
Inspector of Police (AWPS),
Mayiladuthurai Police Station,
Mayiladuthurai District.
Crime No.5 of 2022

...

Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.5 of 2022 on the file of the respondent Police.

For Petitioner : Mr.C.T.Saravanan
For Respondent : Mr.A.Gokulakrishnan
Additional Public Prosecutor.

ORDER

The petitioner, who was arrested and remanded to judicial custody on 25.03.2022 for the alleged offence punishable under Section 10, r/w 9(i) and 4 r/w 18 POCSO Act, 2012 in Spl.S.C.No.52 of 2022 on



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the file of the Special Court under POCSO Act, Nagapattinam in Crime No. 5 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the victim girl is aged about 14 years and on 23.03.2022 at about 7.00 p.m., the petitioner followed the victim girl and thereby attacked her and had attempted to commit rape on her. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution and a false case has been foisted against the petitioner. Hence, he prays for grant of bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent produced the statement of the victim girl recorded under Section 164 of Cr.P.C. He further submitted that already this Court had dismissed the petitioner's bail petition in CrI.O.P.No.14246 of 2022 and



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17640 of 2022 dated 23.06.2022 and 28.07.2022 respectively. Hence, he vehemently opposed for granting bail to the petitioner.

5. On perusal of the statement recorded under Section 164 of Cr.P.C revealed that the petitioner behaved violently with her and attempted to push down and to lay on her. Thereafter, he had beaten her. Therefore, she sustained injury on her hand. Except those allegations, there is no other allegation as against the petitioner. However, the petitioner did not commit any penetrative sexual assault on the victim child.

6. Considering the above facts and circumstances of the case, and also the period of incarceration of the petitioner from the date of his arrest i.e. 25.03.2022, this Court is inclined to grant bail to the petitioner on condition that **the petitioner shall file an undertaking affidavit before the Trial Court that he will not indulge in any similar offence any further** and on such filing, the petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten



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Thousand only) with **two blood related sureties**, each for a like sum to the satisfaction of the learned **Special Judge, Special Court under POCSO Act, Nagapattinam**, 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 file an undertaking affidavit before the Trial Court that he will not indulge in any similar offence any further.**

[c] the petitioner shall report before the respondent police daily Morning at 10.30 a.m., and Evening 05.30 p.m., for a period of six weeks, thereafter, as and when required for interrogation.

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

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

[f] 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].



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[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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To

- 1.The Special Judge,
Special Court under POCSO Act,
Nagapattinam.
- 2.The Inspector of Police (AWPS),
Mayiladuthurai Police Station,
Mayiladuthurai District.
3. District Jail,
Nagapattinam.
- 4.The Public Prosecutor,
High Court of Madras.



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G.K.ILANTHIRAIYAN, J.

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