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Crl.O.P.No.24855 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.10.2022

CORAM

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

Crl.O.P.No.24855 of 2022

Jayakodi

... Petitioner/Sole Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Nagapattinam,
Nagapattinam District.
(Crime No.28/2022).

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
praying to enlarge the petitioner on bail in Crime No.28 of 2022 pending on
the file of the respondent.

For Petitioner : Mr.P.Muthamizhselvakumar

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.09.2022 for the offences punishable under Sections 8 read with Section 7 of Protection of Children from Sexual Harassment Act-2012 read with Section 376 read with 511 of Indian Penal Code in Crime No.28 of 2022 on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the defacto complainant/Durga Devi is that she was studying B.A English Literature and on 26.08.2022 around 08.30.p.m., while she was at her home, the petitioner came behind and hugged her and also inappropriately touched her private parts and outraged her modesty. The further allegation is that during October 2017, while she was doing 10th std., the accused had behaved in a similar fashion. Hence, the case.

3. Learned Counsel for the petitioner would submit that the petitioner is an innocent person and false complaint has been lodged against the petitioner. He would further submit that petitioner and the defacto complainant are neighbours and that, due to previous enmity between the



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petitioner and the defacto complainant's father, false complaint has been given. He would further submit that major part of the investigation has been completed and the petitioner is prepared to abide by any stringent condition imposed by this Court and further the petitioner will not enter into the Jurisdictional village, till the completion of trial. Hence, he prays for grant of bail to the petitioner.

4. The Learned Government Advocate (Crl. Side) would submit that the petitioner, who is a neighbour of the defacto complainant had misbehaved with her by inappropriately touching her and also harassed her and further in a similar fashion, the petitioner had committed the offence in the year 2017. He would further submit that investigation completed and final report filed before the concerned Court and the 164 statement has also been recorded from the victim girl. However, he opposed for grant of 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.



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6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also considering the period of incarceration, 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**, each for a like sum to the satisfaction of learned **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 stay at Trichy and report before the **Inspector of Police, Cantonment Police Station, Trichy** everyday at **10.30 a.m.** for a period of four weeks and thereafter on every Saturday at **10.30.a.m.**, until further orders. It is made clear that the petitioner shall not enter into the Jurisdictional Limit of the respondent police till the completion of the trial.

[c] the petitioner shall not abscond either during investigation or



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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.

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A.D.JAGADISH CHANDIRA.,J.
Sma

To

1. Special Court under POCSO ACT,
Nagapattinam.
2. The Inspector of Police,
All Women Police Station,
Nagapattinam,
Nagapattinam District.
3. The District Prison,
Nagapattinam.
4. The Inspector of Police,
Cantonment Police Station,
Trichy.
5. The Public Prosecutor,
High Court of Madras.

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