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Crl.OP.Nos.25602 & 26165 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2022

CORAM

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

Crl.OP.No.25602 & 26165 of 2022

1.Saravanan @ Sengeni
Crl.O.P.No.25602/2022

... Petitioner in

2.S.Jagadesh @ Iyyar

... Petitioner in Crl.O.P.No.26165/2022

Vs.

State Rep. By
The Station House Officer,
Dhanvantri Nagar Police Station,
Puducherry.
(Crime No.187 of 2022)

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

COMMON PRAYER: Criminal Original Petitions filed under Section 439 of Cr.P.C., pleaded to enlarge the petitioners on bail in Crime No.187 of 2022 pending investigation before the respondent police.

For Petitioners : in Crl.O.P.No.25602/2022
Mr.A.Anandharaj

in Crl.O.P.No.26165/2022



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Mr.M.Premraj

For Respondent : in both Crl.O.P's
Mr.V.Balamurugane
Public Prosecutor (Puducherry),

COMMON ORDER

The first petitioner, who was arrested and remanded to judicial custody on 14.09.2022 for the offences punishable under Sections 370(2), 370(3), 370(4) of IPC and Sections 3(2)(a), 4(1), 4(2)(c), 5(1)(d), 6,7(1)(b) of Immoral Traffic (prevention) Act, 1956 @ 370(2), 370(3), 370(4) of IPC and Sections 6 & 17 of Protection of Children from Sexual Offences Act 2012 and Section 3(2)(a), 4(1), 4(2)(c), 5(1)(d), 6,7(1)(b) of Immoral Traffic (Prevention)Act, 1956 and the second petitioner, who was arrested and remanded to judicial custody on 16.09.2022 for the offences punishable under Sections 370(2)(3)(4) of IPC, 6 & 17 of POCSO Act, 2012 and Section 3(2)(a), 4(1),(2)(c) and 5(1)(d), 6(1)(2)(2)(a) and 7(1)(b) of ITP Act 1956 respectively in Crime No.187 of 2022 on the file of respondent police, seek bail.



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2. The case of the prosecution is that on 13.09.2022 at 14.00 hrs, the Sub Inspector of Police, D.Nagar had conducted raid at No.23, 1st Cross Street, Mohan Nagar, Puducherry along with police parties. On search, he had found that one female person and two male persons had indulged in prostitution. During enquiry, it was found that the accused person one Balaji had procured the minor victim girl, for the purpose of prostitution and also engaged her with 30 other persons, who have subjected her to sexual assault. Based on the confession of A1, the respondent police arrested the petitioners. Subsequently, the statement of the victim girl under Section 164 of Cr.P.C also recorded, wherein, she had stated that many other persons have committed sexual assault on her. Hence, the case.

3. The learned counsels appearing for the petitioners would submit that the petitioners are innocent and they are not aware of the prostitution being run by the A1. Based on the confession of A1, the respondent police arrested the petitioners. They are in custody for more than 45 days. He would submit that the respondent police conducted Test Identification Parade through the victim girl at Jail, where, the victim girl has not identified the



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petitioners. He would submit that other than the confession of A1, there are no materials against the petitioners and the co accused in this case, who are implicated based on the confession of A1, have been granted bail by the Special Judge, Puducherry in Crl.M.P.No.3016 of 2022 dated 18.10.2022 and Crl.M.P.No.3039 of 2022 dated 19.10.2022. Therefore, they pray for grant of bail to the petitioners.

4. The learned Public Prosecutor (Puducherry) appearing for the respondent would submit that a raid was conducted by the respondent police at No.23, 1st Cross Street, Mohan Nagar, Puducherry. During the raid, it was found that A1 had indulged in prostitution by engaging minor victim girl and A1 was arrested. Based on his confession, the petitioners were also arrested by the respondent police. Later, Test Identification Parade has been conducted and the victim girl has not identified the petitioners. He would submit that the statement of the victim girl under Section 164 of Cr.P.C., has also been recorded, wherein, she had stated that some other persons had committed sexual assaulted on her and the investigation is pending. Hence, he vehemently opposed to grant bail to the petitioners.



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5. Heard both the learned counsel 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 and further that the victim girl had not identified the petitioners in the Test Identification Parade and also the period of incarceration suffered by the petitioners from 14.09.2022 and 16.09.2022 respectively, this Court is inclined to grant bail to the petitioners.

7. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.10,000/- (Rupees Ten Five thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Judicial Magistrate I, Puducherry** 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



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Bank pass Book to ensure their identity;

[b] the petitioners shall report before the respondent Police daily at 10.00 a.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.

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To

1. The learned Judicial Magistrate-I, Puducherry
2. The Station House Officer,
Dhanvantri Nagar Police Station,
Puducherry.
3. The Central Jail, Kalapet,
Puducherry.
4. The Central Prison,
Puducherry.
5. The Public Prosecutor,
Public Prosecutor



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A.D.JAGADISH CHANDIRA,J.

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