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CrI.O.P.No.27374 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2022

CORAM

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

CrI.O.P.No.27374 of 2022

Mohanraj @ Mohan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station East,
Coimbatore City.
Crime No.60 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in respect of Crime No.60 of 2022
on the file of the respondent police.

For Petitioner : Mr.R.Amburosh

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

For Intervenor : Mr. Dinesh Sharma



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 06.10.2022 for the offences punishable under Sections 9(1) and 10 of POCSO Act, 2012 and Section 506(i) of IPC in Crime No.60 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant one Mohammed Vaseem is that, the petitioner had inappropriately behaved with his minor daughter aged about 12 years by touching her legs and later he had also threatened her not to disclosed the same to anyone. Hence, the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner is a senior citizen and he is a tenant in the house of the mother of the defacto complainant. There used to be frequent fight in respect of property dispute between the defacto complainant and his parents. On an earlier occasion, the mother of the defacto complainant had given a complaint against the defacto complainant Mohamed Vaseem and his wife Afrin Fathima, in which, the petitioner had supported the defacto



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complainant's mother. Enraged by the same, in order to take vengeance, the defacto complainant has given a false complaint, as if the petitioner had inappropriately touched and misbehaved with the petitioner. He would also submit that major part of the investigation is over and the statement of the victim girl under Section 164 of Cr.P.C has also been recorded. He would also reiterate that the petitioner is in custody from 16.10.2022. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner is stated to have touched the legs of the minor daughter aged about 12 years with sexual instant. He would further submit that the statement of the victim girl recorded under Section 164 of Cr.P.C has also been recorded. Hence, he vehemently opposed to grant bail to the petitioner.

5. The learned counsel appearing for the defacto complainant would submit that the petitioner is a tenant living in ground floor and when the defacto complainant's daughter gone to his house, he had inappropriately touched the legs of the defacto complainant's daughter.



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6. Heard both the learned counsel and perused the materials available on record including the statement recorded from the victim girl under Section 164 of Cr.P.C and also the complaint given by the defacto complainant's mother against him.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel and also the period of incarceration suffered by the petitioner and also perusing the statement recorded from the victim girl under Section 164 of Cr.P.C., and the complaint lodged against the defacto complainant by his mother, this Court is inclined to grant bail to the petitioner.

8. 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 the **learned Principal Special Court for Exclusive Trial of Cases under POCSO Act, Coimbatore** and on further conditions that:



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[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 Salem and report before Inspector of Police, Fairland Police Station, Salem daily at 10.30 a.m., until further orders and it is also made clear that the petitioner shall not enter into the jurisdictional limit of the respondent police 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.

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A.D.JAGADISH CHANDIRA., J.
Sma

To

1. The Principal Special Court for
Exclusive Trial of Cases under POCSO Act,
Coimbatore.
2. The Inspector of Police,
All Women Police Station East,
Coimbatore City.
3. Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras.

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