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CrI.O.P.No.28084 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

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

CrI.O.P.No.28084 of 2022

Udhayakumar

... Petitioner

Vs.

The State represented by,  
The Inspector of Police,  
All Women Police Station,  
East Coimbatore.

(Crime No.52 of 2022).

... Respondent

**PRAYER:** Criminal Original Petition filed under Section 439 of Cr.P.C.,  
pleaded to enlarge the petitioner on bail in connection with the Crime No.52  
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.C.V.Kumar

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 08.09.2022 for the offence punishable under Sections 10, 9(l), 9(m), 9(n) of Protection of Children from Sexual Offences Act, 2012, on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the de-facto complainant, who is the wife of the petitioner, is that she got married to the petitioner during the year 2014 and that they have got one male child, aged about 6 years and a female child, aged about 4 1/2 years. The further allegation is that her husband got addicted to porn videos and that he had misbehaved with his own son and inappropriately touched his private parts. Hence the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner, who is none other than the husband of the de-facto complainant, is an innocent person and due to the matrimonial dispute, the de-facto complainant want to go separately and has demanded money from the petitioner and when the petitioner refused to give money, she has given a



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false complaint against the petitioner, as if he had misbehaved with his own son. He further submitted that the petitioner was arrested on 08.09.2022 and he is in custody for more than 60 days and the petitioner is entitled for bail under Section 167 (2) Cr.P.C. Hence, he prays for grant of bail to the petitioner.

4. The Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner is the husband of the de-facto complainant, who has addicted to porn videos, had misbehaved with his own son and touched inappropriately on his private parts. He further submitted that the charge sheet has not been filed so far, however, 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 statement recorded under 164 Cr.P.C from the victim.



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6. Taking into consideration the facts and circumstances of the case and taking note of the statement recorded under Section 164 Cr.P.C. from the victim, 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 the **learned Special Judge for Exclusive Trial of Cases under POCSO Act, Coimbatore** 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 report before the respondent Police everyday at 10.30 a.m., for a period of two weeks and thereafter, on every Wednesday and Saturday 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;



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[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.

**16.11.2022**

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To

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



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**A.D.JAGADISH CHANDIRA.,J.**

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