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Crl.OP.No.29435 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2022

CORAM

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

Crl.OP.No.29435 of 2022

Karunamoorthy

... Petitioner

Vs.

State rep. By
The Inspector of Police,
Thitakudi Police Station,
Cuddalore.
(Crime No.1323 of 2020)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Spl.S.C.No.41 of 2022 pending on
the file of the Special Court for the Exclusive Trial of POCSO cases,
Cuddalore.

For Petitioner : Mr.P.M.Syed Abuthahir

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 03.10.2022 for the offences punishable under Sections 9(m), 10 of POCSO Act, 2012 , in Spl.S.C.No.41 of 2022 on the file of the Special Court for the Exclusive Trial of the POCSO cases, Cuddalore, seeks bail.

2. The case of the prosecution is that the petitioner had committed penetrative sexual assault on the minor victim girl. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an accused in Spl.S.C.No.41 of 2022 on the file of Special Court for the Exclusive Trial of the POCSO cases, Cuddalore. He would submit that due to illness, the petitioner was unable to appear before the Court on 05.08.2022 and therefore, the learned Judge had issued a Non bailable warrant against the petitioner. Pursuant to which, the petitioner was arrested on 03.10.2022. He would submit that the petitioner is ready to furnish adequate security and undertakes to cooperate for the speedy disposal of the trial. Therefore, he prays for grant of bail to the petitioner.



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4. The learned Government Advocate (crl.side) appearing for the respondent would submit that the case is of the year 2022 and there are totally 22 witnesses in this case. He would submit that the petitioner did not appear on 05.08.2022 and therefore, the learned Judge had issued a Non Bailable Warrant against the petitioner. Pursuant to which, the petitioner was arrested on 03.10.2022 at his residence. He would submit that out of 22 witnesses, PW1 to PW4 has been examined and the case now stands posted to 01.12.2022 for the examination of LW5 to LW22. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the materials available on record.

6. Taking into consideration of the facts and circumstances of this case and the submissions made by the learned counsel and also considering the fact that the petitioner was arrested at his residence only, this Court is inclined to grant bail to the petitioner with certain conditions.



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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, out of which, one surety should be a blood related surety**, each for a like sum to the satisfaction of the **learned Special Judge for the Exclusive Trial of POCSO Cases, Cuddalore** 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;

[c] the petitioner shall report before the **learned Special Judge for the Exclusive Trial of POCSO Cases, Cuddalore on all working days at 10.30 am until further orders;**

[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;



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[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]**;

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

30.11.2022

shk

To

1. The learned Special Judge for the Exclusive Trial of POCSO Cases,
Cuddalore
2. The Inspector of Police,
Thitakudi Police Station,
Cuddalore.
3. The Central Jail,
Cuddalore
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.

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