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CrI.O.P.No.31224 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

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THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

CrI.O.P.No.31224 of 2022

A.S.Srinath

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
W-17, All Women Police Station,
Chennai.

(Crime No.15/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in connection with the Crime No.15
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.Ilayaraja Kandasamy
for P.Mir Nadeem Ali
For Respondent : Mr.S.Vinoth Kumar
Government Advocate (CrI.Side)



Crl.O.P.No.31224 of 2022

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ORDER

The petitioner who was arrested and remanded to judicial custody on 16.09.2022 for the offences under Sections 6 r/w 5(1)(n), 12, 6 r/w, 17, 21(1) Protection of Child from Sexual Offences Act 2012 and 506(ii) of IPC, in Crime No.15 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant is that the petitioner, who is the father of the victim had committed penetrative sexual assault on his own daughter. Hence, the case.

3. Learned counsel for the petitioner submitted that this is the second bail application filed by the petitioner before this Court and this Court had earlier dismissed the bail application in Crl.O.P.No.27064 of 2022 vide order dated 09.11.2022. He further submitted that the petitioner is none other than the father of the victim girl. He further submitted that the victim was having love affair with a boy against the wishes of the petitioner and she eloped from the house and the petitioner had reprimanded her, thereby, a false complaint has been given by the de-facto complainant against her



CrI.O.P.No.31224 of 2022

parents very lately after completing the age of majority for the offences that were alleged to have taken place when she was minor. He also submitted that the accused A2, who is the mother of the victim girl was granted bail by this Court in CrI.O.P.No.24495 of 2022 dated 06.10.2022. Hence, he prays to grant bail to the petitioner.

4. Learned Government Advocate (CrI.Side) submitted that this is the second bail application of this petitioner and it is a case where the biological father had committed penetrative sexual assault on his very own daughter. He further submitted that the statement was recorded from the victim girl under Section 164 of Cr.P.C wherein she had given a detailed statement on how and what manner, the petitioner had committed the offence. He also stated that major part of the investigation is over and also submitted that if the bail is granted to the petitioner, there is every possibility of the petitioner to influence the victim girl and thereby he vehemently oppose to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.Side) for the respondent and perused the



CrI.O.P.No.31224 of 2022

materials available on record including the statement recorded from the victim girl under 164 Cr.P.C.

6. Taking into consideration the facts and circumstances of the case and the submission made by the learned counsel and also considering the fact that the major part of the investigation is over, 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.10,000/- (Rupees Ten Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Special Court for Exclusive Trial of cases under POCSO Act, Chennai** 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 away from the home and he should not communicate with the victim girl;



Crl.O.P.No.31224 of 2022

(c) the petitioner shall report before the respondent police on every Wednesday and Sunday at 10.30 a.m., for a period of three months and thereafter, every Saturday, at 10.30 a.m., until further orders;

(d) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(e) the petitioner shall not abscond either during investigation or trial;

(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]*; and;

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229-A IPC.

19.12.2022

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Crl.O.P.No.31224 of 2022

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To

1. The Special Court for Exclusive Trial
of cases under POCSO Act, Chennai.
2. The Inspector of Police,
W-17, All Women Police Station,
Chennai.
3. The Central Prison - II,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.31224 of 2022

T.V.THAMILSELVI,J.

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Crl.O.P.No.31224 of 2022

19.12.2022