



CrI.O.P.No.31043 of 2022

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2022

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

CrI.O.P.No.31043 of 2022

Ashokan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Kariyapattinam Police Station,
Nagapattinam District.

(Crime No.165/2022).

... 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.165
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.Ma.Gowthaman for
Mr.Abinesh Babu
For Respondent : Mr.S.Vinoth KUMar
Government Advocate (CrI.Side)



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CrI.O.P.No.31043 of 2022

ORDER

The petitioner, who was arrested and remanded to judicial custody on 27.09.2022 for the alleged offences punishable under Sections 10, 9(f), 6, 5(f), 12 and 11(4) of POCSO Act in Crime No.165 of 2022, seeks bail.

2. The case of the prosecution is that the petitioner, who was working as a Physical Education Teacher in Government Higher Secondary School, Katharipulam, Nagapattinam District, attempted to commit sexual assault on the minor victim girl, who is studying 11th standard in the same school. Hence the case.

3. Learned counsel appearing for the petitioner would submit that the petitioner, who was working as a physical education Teacher in Govt.Hr.Sec.School, Katharipulam, Nagapattinam District, is an innocent person and he has been falsely implicated in this case. He would further submit that even as per the complaint other than misbehaviour, there is no allegation of sexual assault. He would also submit that the petitioner is now under suspension and he is ready to abide by any stringent conditions that



Crl.O.P.No.31043 of 2022

may be imposed by this Court. Hence, he prayed to grant bail to the petitioner.

4. Per contra, the learned Government Advocate (Crl.Side) would submit that the petitioner has attempted to commit sexual assault on the minor victim girl. He would further submit that other students in the school have also stated about the sexual harassment of the petitioner. He would also submit that 164 statement has been recorded from the victim girl and the investigation has also been completed. However, he vehemently opposed to grant bail to the petitioner.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



Crl.O.P.No.31043 of 2022

WEB COPY

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 Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Nagapattinam** 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] At the time of furnishing the sureties, the petitioner shall also file an affidavit of undertaking stating that he will not have communication with the defacto complainant/victim in future.

[c] the petitioner shall report before the respondent police on every Saturday at 10.30 a.m., for a period of six months;

[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



Crl.O.P.No.31043 of 2022

WEB COPY

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.

8. After completion of the period of suspension undergone by the petitioner, the Department concerned is directed to transfer him to any other Boys school.

15.12.2022

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To

- 1.The Sessions Judge,
Special Court for exclusive trial of cases under POCSO Act,
Nagapattinam.
- 2.The Inspector of Police,
Kariyapattinam Police Station,
Nagapattinam District.
3. The District Prison,
Nagapattinam.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.31043 of 2022

T.V.THAMILSELVI,J.

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Crl.O.P.No.31043 of 2022

15.12.2022