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CrI.O.P.No.31309 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.12.2022

CORAM

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

CrI.O.P.No.31309 of 2022

Rajesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Kottakuppam,
Villupuram District.

(Crime No.35/2022).

... 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.35
of 2022 pending investigation on the file of the respondent Police.

For Petitioner : Mr.A.Tamilvanan

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (CrI.Side)



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Crl.O.P.No.31309 of 2022

ORDER

The petitioner, who was arrested and remanded to judicial custody on 24.11.2022 for the offences under Section 448 of IPC r/w Sections 5(j)(ii), 6 Protection of Child from Sexual Offences Act 2012, in Crime No.35 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 had committed penetrative sexual assault on the minor victim girl aged about 17 years, due to which, the victim girl became pregnant. Hence the case.

3. Learned counsel for the petitioner submitted that the petitioner, aged about 19 years, and the victim girl, aged about 17 years are close relatives and there was a love affair between them. He further submitted that the victim girl become pregnant and when she has been taken to hospital, the complaint has been lodged against the petitioner, by the hospital staff. He further stated that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had developed an affair with the minor victim girl. He further submitted that both



Crl.O.P.No.31309 of 2022

the family members of the petitioner and the victim girl had accepted to perform their marriage after the minor girl attaining majority and they have also filed the affidavits, regarding the same. Hence, he prays to grant bail to the petitioner.

4. The minor victim girl and her mother were present before this Court and this Court has enquired them, thereby, they admitted that the petitioner is a close relative to them and that they have no objection in bail being granted to the petitioner and the necessary affidavits have also been filed by them.

5. Learned Government Advocate (Crl.Side) submitted that based on the information received from the hospital, a case in Crime No.35 of 2022 has been registered against the petitioner for committing penetrative sexual assault on the minor victim girl. He further submitted that the petitioner has been arrested on 24.11.2022. He further stated that the statement was recorded from the victim girl under Section 164 of Cr.P.C. He also stated that major part of the investigation is over. However, he oppose to grant bail to the petitioner.



Crl.O.P.No.31309 of 2022

WEB COPY

6. 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 from the victim girl under 164 Cr.P.C.

7. Taking into consideration the facts and circumstances of the case and the submission made by the learned counsel and taking note of the submissions made by the victim girl and her mother and also considering the fact that the major part of the investigation is over, 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.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, Villupuram**, and on further conditions that:

(a) the sureties shall affix their photographs and left thumb impression in the surety bond and the Magistrate



Crl.O.P.No.31309 of 2022

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 on every Wednesday 10.30 a.m., for a period of three months and thereafter, as and when required for interrogation;

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

(d) the petitioner shall not abscond 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]*; and;

(f) 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.31309 of 2022

WEB COPY

To

1. The Sessions Judge, Special Court for Exclusive Trial
of cases under POCSO Act, Villupuram.
2. The Inspector of Police,
All Women Police Station,
Kottakuppam,
Villupuram District.
3. The District Jail,
Villupuram District.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.31309 of 2022

T.V.THAMILSELVI,J.

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Crl.O.P.No.31309 of 2022

19.12.2022