



Crl.OP.No.733 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2023

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THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

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..Petitioner

Vs.

1. State Represented by
The Deputy Superintendent of Police,
Arakkonam,
Ranipet District.

2. The Inspector of Police,
All Women Police Station,
Arakkonam,
Ranipet District.
(Crime No.20 of 2021)

3. Priya

..Respondents

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in connection with the case in Spl.S.C.No.102 of 2022 on the file of the Learned Special Court for Exclusive Trial of POCSO Act cases, Vellore.



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For Petitioner : Mr.P.Krishnan
For R1 and R2 : Mr.V.J.Priyadarsana
Government Advocate (Crl.Side)

ORDER

The petitioner, who was arrested on 11.01.2022 and remanded to judicial custody on 13.01.2022 for the offence punishable under Sections 323, 342, 376(2)(i), 376(D), 506(ii) IPC and Sections 5(g), 6, 17 of POCSO Act, 2012 and Sections 3(1)(r), 3(1)(s), 3(1)(w)(I), 3(2)(v) of SC/ST (POA) Amendment Act, in Crime No.20 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 29.12.2021 at about 5 p.m., when the de-facto complainant's daughter has gone out to attend her nature's call, A1 to A3 had abducted her and had committed penetrative sexual assault on the victim girl. After hearing the hue and cry of the victim girl, one Priya and the petitioner herein rescued her from the scene of occurrence and took her to their house. Later, the victim was admitted in the hospital. Hence, the complaint.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A4. Even as per the FIR, there is no specific overt-act as against the petitioner. On 29.12.2021, at about 5 p.m., when the victim had gone out to attend her nature's call, A1 to A3 had committed penetrative sexual assault on her. Thereafter, the petitioner and her sister only had rescued the victim girl from the scene of crime. The victim was taken to the house of the petitioner and also taken to the hospital. Therefore, the petitioner has nothing to do with the crime as alleged by the prosecution. He was arrested on 11.01.2022 and remanded to judicial custody on 13.01.2022. He further submitted that some of the accused were arrested and subsequently released on bail. Now, the respondent had completed the investigation and filed a final report and the same has been taken cognizance by the Trial Court and it is pending for trial in Spl.S.C.No.102 of 2022. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that as per the statement recorded



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under Section 164 Cr.P.C. there is specific overt-act as against the petitioner. He had also committed penetrative sexual assault on the victim minor girl. Therefore, there is absolutely no change of circumstances, since this Court had already dismissed his bail application. Hence, he vehemently opposed grant of bail to the petitioner.

5. A perusal of FIR revealed that the victim girl is aged about 13 years. She belong to SC/ST Community. On the date of occurrence, on 29.12.2021, her parents went to Tirupathi to visit their son. In their house, there is no lavatory and as such the victim girl went out for her nature's call at about 05.00 p.m, on 29.12.2021. At that juncture, A1 to A3 abducted her and committed penetrative sexual assault on her. Immediately, after hearing the noise of the victim, the petitioner and his sister went to the scene of crime and rescued the victim girl. Immediately, it was also informed to her parents and thereafter, admitted into the hospital.



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6. Whereas, a perusal of statement recorded under Section 164

Cr.P.C revealed that the petitioner is residing in the opposite house. He had committed penetrative sexual assault on her once. However, she did not mention any date or time in respect of the said overt-act of the petitioner herein. However, she stated that the petitioner and his sister rescued her from the scene of crime and they admitted her into the hospital.

7. Considering the above facts and circumstances of the case, and also taking note of the fact that the petitioner is in judicial custody from 13.01.2022, 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 blood related sureties**, each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of POCSO Cases, Vellore and on further conditions that:



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[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 Special Court for Exclusive Trial of POCSO Cases, Vellore, daily Morning at 10.30 a.m., and Evening 05.00 p.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.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

30.01.2023

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G.K.ILANTHIRAIYAN, J.

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To

- 1.The Special Court for Exclusive Trial of POCSO Cases, Vellore.
2. The Deputy Superintendent of Police,
Arakkonam,
Ranipet District.
3. The Inspector of Police,
All Women Police Station,
Arakkonam,
Ranipet District.
3. The Central Prison,
Vellore,
- 4.The Public Prosecutor,
High Court of Madras

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30.01.2023