



Crl.O.P.No. 1045 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.01.2023

CORAM:

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

Crl.O.P.No.1045 of 2023

Mani @ Manikandan

... Petitioner

Vs.

State represented by
The Station House Officer,
Bahour Circle,
Puducherry
(Crime No.135 of 2022)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Cr.No.135 of 2022 on file of the respondent police.

For Petitioner

: Mr.Swamy Subramanian
for Mr.M.P.Yuvaraj

For Respondent

: Mr.V.Balamurugane
Public Prosecutor (Pondicherry)



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ORDER

The petitioner who was arrested and remanded to judicial custody on 02.12.2022 for the alleged offence under Section 6 of POCSO Act in Crime No.135 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the accused had committed penetrative sexual assault on the minor victim girl aged about 14 years, as a result of which, she become pregnant. Hence, the complaint.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent person aged about 19 years. He further submitted that the daughter of the defacto complainant is none other than the cousin of the petitioner and there was a love affair between them. He also submitted that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had an affair with the minor victim girl. He also submitted that the petitioner understands that the statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she had admitted that there was a love affair between her and the



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petitioner. He further submitted that the petitioner is in custody from 02.12.2022. Hence, he prays for grant of bail to the petitioner.

4.The Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner committed penetrative sexual assault on the minor victim girl, due to which, she become pregnant. He further submitted that the statement has also been recorded from the victim girl under 164 Cr.P.C., wherein, she had stated that there was a love affair between the petitioner and herself. He also submitted that the petitioner was arrested on 02.12.2022, however, he opposed to grant bail to the petitioner.

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



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6. Taking into consideration the facts and circumstances of the case and taking note of the statement recorded under Section 164 Cr.P.C. from the victim girl that there was a love affair between her and the petitioner, 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 **learned Special Judge (under the POCSO Act), Puducherry** 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 report before the respondent police on every Saturday at 10.30 a.m., for a period of twelve weeks.**

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



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(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;

20.01.2023

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- 1.The Special Judge (under the POCSO Act),
Puducherry.
- 2.The Station House Officer,
Bahour Circle,
Puducherry
- 3.The Central Prison,
Kalapet, Puducherry.



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4. The Public Prosecutor, High Court, Madras.

T.V.THAMILSELVI, J.

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