



WEB COPY



Crl.O.P.No.1033 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2023

CORAM

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

Crl.O.P.No.1033 of 2023

Imthiyas

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
W-23, All Women Police Station,
Royapettah,
Chennai – 600 014.

(Crime No.2 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Spl.S.C.No.217 of 2022 in Crime
No.2 of 2022 on the file of the respondent Police.

For Petitioner : Mr.R.Rajan

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



WEB COPY



CrI.O.P.No.1033 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 05.04.2022 for the alleged offences punishable under Sections 9(n) r/w 10, 5(j)(ii)(n) r/w 6 and 17 of Protection of Children from Sexual Offences Act, 2012 in Crime No.2 of 2022, on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the de-facto complainant, who is the biological sister of the minor victim girl, is that the petitioner's family adopted the victim girl when she was one month old child and now she is 18 years old. The petitioner, his brothers and his father who had adopted the victim girl have misbehaved with her and had committed penetrative sexual assault on her, due to which she become pregnant. The further allegation is that the accused have aborted the foetus without the knowledge of the victim girl and also threatened her not to disclose it to anyone. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and a false complaint has been given as



Crl.O.P.No.1033 of 2023

against him. He further submitted that the victim girl was having a love affair with some other person and eloped with him. He further submitted that when her act was opposed by the petitioner and his family, the victim girl has lodged a false complaint as if the petitioner and his brothers had committed sexual assault on her. He further submitted that the petitioner is in custody from 05.04.2022. Hence, he prays for grant of bail to the petitioner.

1. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the victim girl, who was the adopted child of the petitioner's family, had sexually assaulted by the petitioner and his family members, due to which, she become pregnant and without her knowledge, the accused made an abortion to her and threatened her not to disclose it to anyone. He also submitted that the victim girl is now in the custody of her biological brother and the statement has also been recorded from the victim girl under 164 Cr.P.C. He also stated that the investigation has been completed and the final report has also been filed in Spl.S.C.No.217 of 2022, however, he opposed to grant bail to the petitioner.

2.



Crl.O.P.No.1033 of 2023

WEB COPY

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

6. Taking into consideration the facts and circumstances of the case and the submissions made by the learned counsel for the petitioner and also considering the period of incarceration undergone by 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** (out of which, one should be the blood surety, who should produce document to show his/her means), 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



Crl.O.P.No.1033 of 2023

to ensure their identity;

(b) the petitioner should stay away from the victim girl and he should not communicate with the victim girl;

(c) the petitioner shall report before the respondent police on every Saturday at 10.30 a.m., for a period of four months and thereafter, as and when required for interrogation;

(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.

19.01.2023

ham



WEB COPY



Crl.O.P.No.1033 of 2023

T.V.THAMILSELVI,J.

ham

To

1. The Special Court for Exclusive Trial of Cases under POCSO Act,
Chennai.
2. The Inspector of Police,
W-23, All Women Police Station,
Royapettah, Chennai – 600 014.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.

Crl.O.P.No.1033 of 2023

19.01.2023