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Crl.OP.No.3012 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2023

CORAM

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

Crl.OP.No.3012 of 2023

Rajasekar

... Petitioner

Vs.

State rep by
The Inspector of Police,
All Women Police Station,
Villupuram District.
(Crime No.33 of 2022)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in crime No.33 of 2022 pending
investigation on the file of the respondent police.

For Petitioner : Mr.K.Sudhakar

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



Crl.OP.No.3012 of 2023

ORDER

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The petitioner, who was arrested and remanded to judicial custody on 01.04.2022 for the offence punishable under Sections 5(k), 5(I) r/w 6 of POCSO Act and Sections 450, 342 of IPC in Crime No.33 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that, the petitioner herein had committed penetrative sexual assault on the mentally retarded victim girl aged about 15 years. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that there are four accused persons in which the petitioner is arrayed as third accused. The co-accused viz., A1 & A2 already granted bail by this Court by an order dated 27.01.2023 in Crl.O.P.No.1610 of 2023. Hence, he prays to grant bail to the petitioner.



CrI.OP.No.3012 of 2023

WEB COPY

4. The learned Additional Public Prosecutor appearing for the respondent police submitted that after completion of investigation, the respondent police filed charge sheet as against the petitioner and others in Spl.S.C.No.222 of 2022 on the file of the learned Sessions Judge, Special Court of exclusive trial of cases under POCSO Act, Villupuram and it is pending for trial. Hence, he vehemently opposed to grant bail to the petitioner.

5. On a perusal of the statement recorded under Section 164 of Cr.P.C., revealed that the first accused is her own uncle viz., sister's husband and he had committed penetrative sexual assault on her. Her mother's own brother viz., the second accused had also committed penetrative sexual assault. Thus, it is clear that the first and second accused had physical relationship with her. Insofar as the petitioner is concerned, he is the friend of the second accused. That apart, the main accused persons viz., A1 & A2 were released on bail by this Court by an order dated dated 27.01.2023 in CrI.O.P.No.1610 of 2023. Considering the above facts and circumstances and also considering the



CrI.OP.No.3012 of 2023

period of incarceration undergone by the petitioner from the date of his arrest viz., 01.04.2022, this Court is inclined to grant bail to the petitioner.

6. 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 Sessions Judge, Special Court of 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 may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall appear before the trial Court daily twice i.e., morning and evening at 10.30 a.m., and 5.30 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



CrI.OP.No.3012 of 2023

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.

13.02.2023

rts

To

- 1.The Sessions Judge,
Special Court of exclusive
trial of cases under POCSO Act,
Villupuram
2. The Inspector of Police,
All Women Police Station,
Villupuram District.
- 3.The Central Jail,
Cuddalore.
- 4.The Public Prosecutor,
High Court of Madras
Chennai.



WEB COPY



Crl.OP.No.3012 of 2023

G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.3012 of 2023

13.02.2023

Page 6 of 6