



Crl.O.P.No.5823 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who was arrested and remanded to judicial custody on 13.01.2022, for the offence punishable under Sections 323, 342, 376(2)(i), 376(D), 506(i) IPC and Sections 5(g), 6 of Protection of Children from Sexual Offences Act, 2012 and altered to one under Sections 323, 342, 376(2)(i), 376(D), 506(ii) IPC and Sections 5(g), 6, 17 of Protection of Children from Sexual Offences 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 5p.m., when the de-facto complainant's minor 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 one Boopathy rescued her from the scene of occurrence and took her to their house. Later, the victim was admitted



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in the hospital. Hence, the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, who is arrayed as A2, is an innocent person, aged about 22 years and he has been falsely implicated in this case. He further submitted that the petitioner has not committed any offence as stated by the de-facto complainant. He also submitted that the petitioner was arrested on 13.01.2022 and he is in custody for more than a year. He further submitted that co-accused one Boopathy in this case has been granted bail by this Court in Crl.O.P.No.733 of 2023 vide order dated 30.01.2023. He also submitted that the investigation has been completed and the case has been taken up on file Spl.S.C.No.102 of 2022 and pending trial on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Vellore in which, the victim, main accused and the crucial witnesses have been examined. Therefore, he prayed for grant of bail to the petitioner and if only the petitioner comes out on bail, he will be able to defend his case properly.

4. Learned Government Advocate (Crl.Side) appearing for the



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respondent police submitted that the petitioner, who is the main accused in this case, along with A1 & A3 had committed gang rape on the minor victim girl, when she had gone out to attend nature call. He also submitted that this Court, taking into consideration the facts that there was no specific overt-act as against A4 and that the relationship between the victim and A4 was consensual in nature, had granted bail to A4 and as far as this petitioner is concerned, there is a specific allegation of gang rape against him. He further submitted that the investigation has been completed and the final report has also been filed in Spl.S.C.No.102 of 2022, pending trial on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Vellore, and in which, PW1 to PW3 has already been examined and the statement has also been recorded from the minor victim girl under Section 164 Cr.P.C., in which, she had specifically stated about the manner in which, the petitioner had committed the offence. He also submitted that at this stage, if bail is granted to the petitioner, there is every possibility of absconding of the petitioner and he will not be available for trial. Hence, he vehemently opposed grant of bail to the petitioner.



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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 First Information Report and the statement recorded from the victim girl under 164 Cr.P.C.

6. It is the case, where, the accused have committed gang rape on the victim girl, who belongs to the SC/ST community. On 29.12.2021, when the parents of the victim girl had gone to Thirupathi to visit their son, the victim had gone out to attend nature call at about 5.00 p.m., during which, the accused 1 to 3 abducted her and committed penetrative sexual assault on the victim girl. On hearing the cry of the victim, A4 and his sister had gone to the scene of crime and rescued the victim girl and it was also informed to her parents and thereafter, she was admitted in the hospital. This Case was taken up for trial in Spl.S.C.No.102 of 2022, pending trial on the file of the learned Special Court for Exclusive Trial of Cases under POCSO Act, Vellore, and the witnesses PW1 to PW3 were examined.



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7. Taking into consideration the above facts and circumstances of the case and taking note the statement recorded from the victim girl under 164 Cr.P.C. and also considering the gravity of the offence and nature of the heinous manner in which the offence had been committed and this Court finding that the allegations are very serious in nature is not inclined to grant bail to the petitioner.

8. Accordingly, this Criminal Original Petition stands dismissed.

29.03.2023

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