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Crl.O.P.No.4176 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.02.2023

CORAM :

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

Crl.O.P.No.4176 of 2023

Venkatachalapathy @ Venkatachalam ... Petitioner

Vs.

State Rep by
The Inspector of Police,
Melchengam Police Station,
Tiruvannamalai District
Crime No.27 of 2023 ... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in Crime No.27 of 2023 on the file of the respondent Police.

For Petitioner : Mr.N.Ponraj

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



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ORDER

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The petitioner, who was arrested and remanded to judicial custody on 25.01.2023 for the offences punishable under Sections 366(A) of IPC and 363, 366 of IPC and under Sections 11(iv) r/w 12, 7, 8 of POCSO Act, in Crime No.27 of 2023 seeks bail.

2. The case of the prosecution is that the petitioner abducted the defacto complainant's minor daughter and had committed penetrative sexual assault. Hence, the complaint.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that it is a case of love affair which has been falsely projected as a case of rape. He would further submit that the petitioner is in custody for the past 33 days.

4.The learned Government Advocate (Crl. Side) would submit that the petitioner is aged 18 years and the victim girl is aged 17 years. The petitioner who is the neighbor of the defacto complainant had



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committed sexual assault on the minor daughter of the defacto complainant. He would submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C. He would further submit that the investigation is completed, however, he opposed to grant bail to the petitioner.

5. Heard both side and perused the statement of the victim girl recorded under Section 164 Cr.P.C.

6. Taking into consideration the facts and circumstances and the fact that the investigation has been completed and considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

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 Sessions Judge, POCSO Court, Tiruvannamalai**, and on further conditions that:

(a) the sureties shall affix their photographs and left thumb



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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 Sunday at 10.30 a.m., for a period of three months.

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

(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;

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To

1. The Sessions Judge, POCSO Court, Tiruvannamalai
2. The Inspector of Police,
Melchengam Police Station,
Tiruvannamalai District
3. The Superintendent
Central Jail, Vellore.
4. The Public Prosecutor
High Court of Madras, Chennai.



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