



CrI.O.P.No.6080 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2023

CORAM:

THE HON'BLE MR. JUSTICE A.D.JAGADISH CHANDIRA

CrI.O.P.No.6080 of 2023

Stephen @ Prakash

.. Petitioner

/versus/

The State rep.by
The Inspector of Police,
All Women Police Station,
Kottakuppam Police Station,
Villupuram District.

(Crime No.17 of 2022)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail pending investigation in Crime No.17 of 2022 on the file of the respondent police.

For petitioner : Mr.Swarnam J.Rajagopalan

For Respondent : Mr.C.E.Pratap,
Government Advocate (CrI.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 26.02.2023, in connection with Crime No.17 of 2022



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registered for “Girl Missing” and altered for the offences punishable under Sections 5(l) and 6 of Protection of Children from Sexual Offences Act, 2012, in on the file of the respondent Police, seeks bail.

2.The case of the prosecution as per the defacto complainant Samuthiravalli is that her brother and sister-in-law, after giving birth to two girl children, have died and after their death, she was taking care of them. While so, the elder girl, aged about 17 ½ years, has completed 10th standard and later, she was working in a textile shop in Marakanam. On 28.06.2022, she had gone for job and did not come back and thereby, the de-facto complainant has given a complaint and based on which, a "girl missing" case in Crime No.17 of 2022 was registered by the respondent Police. During the course of investigation, it came to light that the petitioner, in the guise of helping her, had taken her from Pondicherry Bus stand to Chennai and stayed with her in a room for two days and committed penetrative sexual assault on her. Further, she was taken by another person to Madurai. Hence the case.



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3.Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely roped in this case. He further submitted that the petitioner is youngster and he had found the victim loitering in Pondicherry Bus stand and she had informed the petitioner that she has no one to take care of her and thereby, the petitioner had taken her to Chennai, where he was employed and they had stayed in a room and subsequently, since the victim wanted to go back to her home, the petitioner had given money and his mobile number to her and also sent her back to her residence. He further submitted that it seems that the victim has not gone back to home and she had gone along with another person to Madurai and later, returned to her guardian's place and thereby, the case has been altered. He further submitted that even as per the prosecution, it is not a case of forceful sexual assault on the victim and it was only a consensual affair. He further submitted that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had consensual affair with the victim girl, aged about 17 ½ years. He also submitted that the petitioner is in judicial custody 26.02.2023 and hence, he prayed for grant of bail to the petitioner.



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4. Learned Government Advocate (crl.side) appearing for the respondent Police submitted that the victim is aged about 17 ½ years old and she was working a textile shop and she was taking care by her paternal aunt and the victim had fight with her guardian and had gone to Pondicherry, where the petitioner had befriended her and thereafter, taken her to Chennai, where he had committed penetrative sexual assault on her. He further submitted the victim girl has been secured and the statement has also been recorded from her under 164 Cr.P.C. Hence, he opposed for grant of bail to the petitioner.

5. Heard the learned Counsel for the petitioners and the learned Government Advocate (crl.side) and perused the materials available on record including the statement recorded under 164 Cr.P.C from the victim girl.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



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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 the **learned Sessions Judge, Special Court for 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 report before the respondent Police everyday at 10.30 a.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



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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]***;

[f] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

10.04.2023

vkr

To

- 1.The Sessions Judge,
Special Court for exclusive trial of cases under POCSO Act,
Villupuram.
- 2.The Inspector of Police,
All Women Police Station,
Kottakuppam,
Villupuram District.
- 3.The Vedampattu Prison,
Villupuram.
- 4.The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA,J.

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