



Crl.O.P.No.6178 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM

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

Crl.O.P.No.6178 of 2023

Jayamoorthy

... Petitioner

Vs.

State Represented by

The Inspector of Police

All Woman Police Station

Villupuram

Crime No.106 of 2022

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the bail to the petitioner/accused on bail in Crime No.102
of 2022 that culminated to charge sheet and taken on file in Spl.S.C.No.17 of
2023 on the file of Sessions Judge, special Court for Exclusive trial of Cases
under POCSO Act, Villupuram.

For Petitioner : M/s.S.Thankira

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.12.2022 for the offences punishable under Sections 9(n), 10 of Protection of Children from Sexual Offences Act, 2012, in Crime No.106 of 2022 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Jayanthi is that she got married the accused Jayamoorthy 17 years ago and her husband/accused was working as a Conductor in a Private Bus. After marriage, when the defacto complainant was about 5 months pregnant, her husband deserted her and subsequently, she delivered a girl baby and thereafter, her husband came and lived with the defacto complainant. Again the defacto complainant got pregnant during which also her husband/accused deserted her and subsequently, she delivered a boy baby and after 11 years, he came to the house of the defacto complainant. At that time, his daughter was studying 10th Standard and during the month of March, he misbehaved with his minor daughter and attempted to hug and lie over her. Hence, the complaint.



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3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and due to matrimonial dispute, a false case has been given against the petitioner. He would further submit that the defacto complainant married the petitioner 17 years ago and later, due to misunderstanding, the petitioner deserted the defacto complainant and later, due to the intervention of the elders in the family, the petitioner rejoined the defacto complainant. Even as per the complaint, the petitioner is only said to have hugged and lied over the victim girl and there is no allegation of penetrative sexual assault. He would further submit that now the wife of the petitioner/the defacto complainant has repented for having given false complaint against the petitioner and that the petitioner has been suffering incarceration from 14.12.2022. Hence, he prayed to grant bail to the petitioner.

4. The learned Additional Public Prosecutor appearing for the respondent police opposed for grant of bail to the petitioner stating that petitioner misbehaved with his minor daughter by hugging and lying over her. He would further submit that the investigation has been completed and the final report has been filed and the same has also been taken on file in Spl.S.C.No.17 of 2023 and the first hearing is on 23.03.2023.



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5. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the statement of the victim recorded under Section 164 Cr.P.C.

6. The defacto complainant appeared before this Court and she was identified by M.Gowri, Spl. Sub Inspector of Police of the respondent police station and this Court also enquired the defacto complainant. She stated that due to misunderstanding between her and her husband/accused, she has given the false complaint against him through her daughter and now she expressed her remorse for having given the false case against her husband and that she has no objection in grant of bail to the petitioner.

7. Taking into consideration the facts and circumstances of the case, the submission of the defacto complainant made before this Court and the fact that the charge sheet has been filed and the same has also been taken on file by the Special Court and also considering 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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8. 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**, 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 **Special Court for Exclusive trial of Cases under POCSO Act, Villupuram, on all working days at 10.00 a.m. until further orders.**

[c] the petitioner shall not abscond during trial;

[d] the petitioner shall not tamper with evidence or witness during 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



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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]***;

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

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To
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1. The Sessions Judge,
Special Court for Exclusive trial of Cases
under POCSO Act, Villupuram,
2. The Inspector of Police
All Woman Police Station
Villupuram
3. The Central Prison
Cuddalore
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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