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Crl.O.P.Nos.6691, 6697 & 6700 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.04.2023

CORAM

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

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Ganesh	... Petitioner in Crl.O.P.No.6691 of 2023
Monir Hussain	... Petitioner in Crl.O.P.No.6697 of 2023
Rajaparthap	... Petitioner in Crl.O.P.No.6691 of 2023

Vs.

The State represented by,
The Inspector of Police,
CCB, Anti Vice Squad - 2,
Chintadripet,
Chennai.

(Crime No.2 of 2023).

... Respondent in all Crl.O.Ps.

COMMON PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., pleased to enlarge the petitioner/accused on bail, in connection with the Crime No.2 of 2023, pending investigation on the file of the respondent Police.

For Petitioner	: Mr.M.Vijayamehanath
For Respondent	: Mr.C.E.Pratap Government Advocate (Crl.Side)



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COMMON ORDER

(This case has been heard through Video Conferencing)

The petitioners, who was arrested and remanded to judicial custody on 21.01.2023, for the offences punishable under Sections 3(2)a, 4(1), 5(1)a, 6(1), 7(1) of Immoral Traffic (Prevention) Act, 1956 @ Sections 3(2)a, 4(1), 5(1)a, 6(1), 7(1), 6(2-A) r/w 6(1) of I.T.P.Act, and 5(1), 5(p) r/w 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.2 of 2023, on the file of the respondent police, seek bail.

2. The case of the prosecution is that on 21.01.2023, the respondent Police has conducted a raid at Hotel India Gate at Thoraipakkam, wherein, at Room No.117 of the said hotel, they found that the accused had made the victim girls to indulge in prostitution. The respondent had rescued 10 victims including one minor victim girl, aged about 16 years and registered the case in Crime No.2 of 2023. The case was originally registered for the offence under Sections 3(2)a, 4(1), 5(1)a, 6(1), 7(1) of Immoral Traffic (Prevention) Act, 1956 and later finding that one of the victim girls is minor, the case has been altered to one under Sections 3(2)a, 4(1), 5(1)a, 6(1), 7(1), 6(2-A) r/w 6(1) of I.T.P.Act, and 5(1), 5(p) r/w 6 of Protection of Children from Sexual Offences Act, 2012. Hence the case.



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3. Learned counsel appearing for the petitioners submitted that the petitioners are innocent persons and they have been falsely implicated in this case. He further submitted that the petitioners are arrayed as A3, A4 & A6 respectively in this case. He also submitted that A3 was working as a House Keeper in the Hotel, A4 was an inmate stayed in the hotel during the relevant time and A6 was working as a Manager in the hotel run by A1. He also submitted that on 21.01.2023, the respondent has conducted a raid in the hotel and during which, some of the inmates in the room, who had checked in as guests were arrested by the respondent. He further submitted that one Nisha and her sister Shalini and Shalini's husband and one minor girl have checked in the room and other than allowing them to stay in the hotel room, the petitioners have not involved in any illegal activities and also they have no connection with them whatsoever. He further submitted that the petitioners, understand that one of the inmates, who stayed there is a minor girl and the statement has been recorded from the minor girl under Section 164 Cr.P.C, wherein, she has not made any allegations as against the petitioners and she also stated that she had accompanied Nisha and her sister Shalini, who was pregnant and Shalini's husband and they have conducted



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the pregnancy test in the room, during which, the respondent has entered into the room and arrested them, as if they have conducted prostitution. He further submitted that no previous case is pending as against the petitioners and also there is no specific allegation against them. He also submitted that similarly placed co-accused in this case has been granted bail by this Court in Crl.O.P.No.4849 of 2023 vide order dated 16.03.2023 and an another accused was granted anticipatory bail by this Court in Crl.O.P.No.5749 of 2023. He further submitted that the petitioners are in custody from 21.01.2023 and they are ready to abide by any stringent conditions that may be imposed by this Court, therefore, he prayed to grant bail to the petitioners.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioners (A3, A4 & A6 respectively) He also submitted that A3 was working as a House Keeper in the Hotel, A4 was an inmate, who stayed in the hotel during the relevant time and A6 was working as a Manager in the hotel named Hotel India Gate at Thoraipakkam, wherein, the respondent has conducted a raid on 21.01.2023 and during such time, they have found that the petitioners along with others have made the victim girls to indulge in prostitution and have rescued 10 victim girls. He



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further submitted that originally, the case was registered for the offence under Sections 3(2)a, 4(1), 5(1)a, 6(1), 7(1) of Immoral Traffic (Prevention) Act, 1956 and later on finding that one of the victim girls is minor, the case has been altered to one under Sections 3(2)a, 4(1), 5(1)a, 6(1), 7(1), 6(2-A) r/w 6(1) of I.T.P.Act, and 5(1), 5(p) r/w 6 of Protection of Children from Sexual Offences Act, 2012. He also submitted that now the case has been transferred to the file of the All Women Police Station, 21 Guindy Police Station. He further submitted that the statement has been recorded from the victim girl under Section 164 Cr.P.C. He further submitted that investigation is pending and no previous case is pending as against the petitioners. He also submitted that if bail is granted to the petitioners, there is every possibility of them to interfere with the investigation and to tamper the evidence, therefore, he opposed for grant of bail to the petitioners.

5. In reply, the learned counsel for the petitioners submitted that the case has been altered to POCSO Act, since one of the victim is stated to be a minor and he pointed out that even the minor girl has not made allegations of sexual assault against the petitioners. Hence, he prayed to grant bail to the petitioners.



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6. 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 minor victim girl.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and also the statement recorded under 164 Cr.P.C from the minor victim girl, this Court is of the view that no specific allegation has been made against the petitioners, as if they have involved the victims in prostitution. Therefore, this Court is inclined to grant bail to the petitioners with certain conditions.

8. Accordingly, the petitioners are ordered to be released on bail on their executing a separate bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties** (out of which one surety should be a blood related surety and should produce document to show his/her means), for a like sum to the satisfaction of the **learned Special Judge, Special Court for Exclusive Trial Cases under POCSO Act, Chengalpattu**, and



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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 petitioners shall report before the respondent Police, everyday at 10.30 a.m., until further orders;

[c] the petitioners shall not abscond either during investigation or trial;

[d] the petitioners 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 petitioners in accordance with law as if the conditions have been imposed and the petitioners 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.

12.04.2023

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To
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1. The Special Judge,
Special Court for Exclusive Trial Cases under POCSO Act,
Chengalpattu.
2. The Inspector of Police,
CCB, Anti Vice Squad - 2,
Chintadripet,
Chennai.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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