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Crl.O.P.No.6592 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2023

CORAM

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

Crl.O.P.No.6592 of 2023

E.Nisanth @ Nisanth Kumar

... Petitioner

Vs.

The Inspector of Police,
W-6 All Women Police Station,
Ayanavaram, Chennai.

(Crime No.5 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail in Crime No.5 of 2022 on the file of
the respondent police.

For Petitioner : Mr.M.Sathish Kumar

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 30.01.2023, for the offences punishable under Sections 366, 511 of IPC r/w Section 12 of POCSO Act in Crime No.5 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Loganathan is that his minor daughter aged 14 years had gone to school, leaving her mobile phone and a call had come from one particular number. When he had attended his daughter mobile phone, the caller had informed that his daughter was along with him and another lady, in Perambalur railway station. Later, the persons have dropped his daughter in her grandfather's house. The police have reprimanded the boy and sent him and later the boy had sent obscene messages to his daughter. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case. He would submit that the daughter of the defacto complainant is known to him and they are friendly with each other and the defacto complainant in



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order to sever the relationship has given a false complaint, based on which, the petitioner was arrested and remanded to Judicial custody. He would submit that the statement under section 164 Cr.P.C has been recorded from the victim, wherein, she has not made any serious allegations as against the petitioner and thereby he would seek for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that the petitioner has threatened the daughter of the defacto complainant and thereafter had attempted to kidnap her from the custody of the defacto complainant. Later, she was secured and subsequently, the petitioner had been sending obscene messages to the victim through face book and instagram. Hence, he opposed for grant bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate(Crl.Side) and perused the materials available on record including the First Information Report and the statement recorded from the victim girl under Section 164 Cr.P.C.



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6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel for the petitioner and taking note of the statement recorded from the victim girl under Section 164 Cr.P.C. and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions;

7. Accordingly, the petitioner is ordered to be released on bail on this executing a bond for a sum of **Rs.10,000/- (Rupees Ten thousand only)** with **two sureties** (out of which, one should be the blood surety, who should produce document to show his/her means), each for a like sum to the satisfaction of **the Special Court for Exclusive trial of cases under POSCO Act, Chennai**, 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;



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[b] the petitioner shall stay at Katpadi and report before the Inspector of Police, Katpadi Police Staion, everyday at 10.30 a.m. for a period of two weeks and thereafter 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 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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A.D.JAGADISH CHANDIRA.,J.

mpa

To

1. The Special Court for Exclusive Trial of cases under POCSO Act at Chennai.
2. The Inspector of Police,
W-6 All Women Police Station,
Ayanavaram, Chennai.
3. The Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.

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