



Crl.O.P.No.7574 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2023

CORAM

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

Crl.O.P.No.7574 of 2023

Srikanth

... Petitioner

Vs.

The Insector of Police,
GB Orathy Police Station,
Chengalpattu District.

(Crime No.36 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail, in connection with the Crime No.36
of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.R.T.S.Kannan

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 25.02.2023, for the offences punishable under Sections 365, 366, 343, 376(3), 376(2) (n) IPC and Sections 5(i), 5(j) (ii) r/w 6(i) of POSCO Act, 2012, in Crime No.36 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant K.Bakiyalakshmi is that, her minor daughter aged about 16 years was found missing and based on the complaint, a case came to be registered in Crime No.36 of 2023 for “girl missing”. Later, during the course of investigation, it came to light that the accused had kidnapped the minor daughter of the defacto complainant and committed penetrative sexual assault on her. Hence, the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner and the victim girl were studying in a same school and there was a love affair between them and that without understanding the rigorous consequences of POSCO Act, they both had consensual sexual intercourse and subsequently, without the knowledge of their parents, they eloped from



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their homes and stayed away for a day. Later, on coming to know about the registration of the case, returned to their homes on the next day. He would submit that the petitioner was arrested on 25.02.2023 and the medical examination on the petitioner as well as the victim girl are already over and that the victim is stated to have given a statement under Section 164 of Cr.P.C., wherein also, she has admitted that there was a consensual sexual affair between them. Hence, he prayed to grant bail to the petitioner.

4. Learned Government Advocate (Crl.side) appearing for the respondent police would submit that the petitioner had eloped with the minor victim girl and committed sexual assault on her. He would further submit that the Statement under Section 164 Cr.P.C., has also been recorded from the minor victim girl wherein, she has stated that the petitioner had committed sexual assault on her against her wish. Hence, he vehemently opposed to 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 Statement of the victim girl recorded 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 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 his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five 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, Chengalpattu**, 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 stay at Chennai and report before the Inspector of Police, Triplicane Police Station, everyday at 10.30 a.m., until further orders. Further, it is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent police, until further orders;

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



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[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.

06.04.2023

gbi



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A.D.JAGADISH CHANDIRA.,J.

gbi

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases
under POCSO Act, Chengalpattu.
2. The Insector of Police,
GB Orathy Police Station,
Chengalpattu District.
3. The Sub-Jail,
Chengalpattu.
4. The Inspector of Police,
Triplicane Police Station,
Chennai.
5. The Public Prosecutor,
High Court of Madras.

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