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Crl.O.P.No.7887 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 12.04.2023

CORAM:

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

Crl.O.P.No.7887 of 2023

MageshKumar

.. Petitioner

/versus/

State rep.by
The Inspector of Police,
All Women Police Station,
Mamallapuram,
Chengalpattu District.
(Crime No.4 of 2022)

.. Respondent

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in Crime No.4 of 2022 on the file of Inspector of Police, All Women Police Station, Mamallapuram, Chengalpattu District.

For Petitioner : Mr.S.Sasikumar

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 02.02.2023, for the offences punishable under Sections 450, 376(3), 376(2)(n), 313, 294(b), 506(II), 323 IPC & Section 4, 6, 17 of



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POCSO Act and Section 4 of Tamil Nadu Prohibition of Harassment of Women Act 2001 in Crime No.4 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant XXX is that she is studying B.A., II year in a private college and that before two years, during Covid pandemic period, during September 2020, the accused had induced her that he was love with her and thereafter, against her wish, had penetrative sexual assault on her. Whenever her mother was not at home, he had committed repeated penetrative sexual assault and that her mother had taken her to a doctor, where it was informed that she was pregnant by 17 weeks and the brother of the A1 one Vadivel who coming to know of the pregnancy, had threatened her and her mother and later due to threat, the pregnancy got aborted and that fearing that it will spoil the reputation of the family, she had not preferred any complaint and later having been educated about sexual abuse had gathered confidence and strength and had given a complaint on 14.03.2022. Hence the complaint.



3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and a false complaint has been given. The fact remains that the petitioner and the defacto complainant are close relatives and they are living close by. Earlier during the year 2020, the petitioner understands that the victim got pregnant and her mother had taken her to hospital at Chennai and abortion was done. Later the news was spread in the village and the defacto complainant's mother had suspecting that the petitioner is responsible had given a false complaint through her daughter. He would further submit that the alleged occurrence is stated to have taken place during the year 2020 and the complaint has been given much belatedly during the year 2022 and the petitioner was arrested on 02.02.2023. He would further submit that the major part of the investigation is also over and due to a family dispute, a false complaint has been given. He would submit that the petitioner is ready to abide any stringent condition that may be imposed on him and the medical examination of the petitioner has also been completed. Hence, he prayed for grant of bail to the petitioner

4. The learned Government Advocate(Crl.Side) would submit that the petitioner had repeatedly committed penetrative sexual assault on



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the victim girl during the year 2020 due to which she became pregnant and later aborted and the complaint has been given during the year 2022 and the petitioner was arrested on 02.02.2023. He would submit that investigation is pending and hence, he opposed for grant of 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.

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, 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 Tiruvallur and report before the Manavala Nagar Police station everyday at 10.30 a.m. and 05.30 p.m., until further orders. The petitioner shall not enter into the jurisdictional limits of the respondent police station till then.

[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.

12.04.2023

Speaking Order / Non-Speaking Order

Index : yes/no

Internet : yes/no

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A.D.JAGADISH CHANDIRA,J.

mpa

To

- 1.The Sessions Judge, Special Court for Exclusive trial of cases
under POCSO Act, Chengalpattu.
- 2.The Sub Jail, Chengalpattu.
- 3.The Inspector of Police,
All Women Police Station,
Mamallapuram,
Chengalpattu District.
- 4.The Public Prosecutor,
High Court, Madras.

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