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Crl.O.P.No.7921 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.04.2023

CORAM

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

Crl.O.P.No.7921 of 2023

Sathish

... Petitioner

Vs.

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

(Crime No.10 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner/accused on bail, in connection with the
Crime No.10 of 2022, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.S.Kingston Jerold

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 25.01.2023, for the offences punishable under Sections 376 & 417 of IPC, in Crime No.10 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the de-facto complainant, Kasthuri, is that on 12.09.2022, she had found that her daughter/victim was looking tired, thereby, she had taken her daughter to the hospital, wherein, she came to know that the victim was three months pregnant. Thereafter, on enquiry, de-facto complainant's daughter/victim informed that she was in love with one Sathish/ petitioner herein and he has taken the victim to his house and had physical relationship with her and they continued their relationship. Whereas, later, it was found that the accused was already a married man. Based on her complaint, the case in Crime No.10 of 2022 has been registered for the offences punishable under Sections 376 & 417 of IPC. Hence, the case.



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3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He also submitted that the petitioner is a married man and the victim was well aware of the same and there was a consensual relationship between them. He further submitted that the petitioner is aged about 26 years and the victim is aged about 21 years and both of them are grown up adults and they have indulged in consensual physical relationship understanding the consequences of their affair. He further submitted that the petitioner is in custody from 25.01.2023 and he is ready to abide by any stringent conditions that may be imposed by this Court, hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner, who is the married man, had induced the de-facto complainant's daughter/victim, had a sexual intercourse with her, due to which, she become pregnant, whereas, only later, the de-facto complainant came to know that the petitioner is a married man. He further submitted that the investigation in this case is still pending and the statement under Section 164 Cr.P.C has also been recorded from the victim.



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He also submitted that the DNA samples of the petitioner have not been taken so far from the petitioner. Hence, he opposed for grant of bail to the petitioner.

5. In reply, the learned Counsel for the petitioner submitted that the petitioner undertakes that in an event of the respondent seeking for blood samples of the petitioner for conducting DNA test, the petitioner is ready to furnish the same. Thereby, he prayed for grant of bail to the petitioner.

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

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side and taking note of the period of incarceration undergone by the petitioner and also the undertaking given 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**, each for a like sum to the satisfaction of the **learned Additional Mahila Court, Egmore, 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;

[b] the petitioner shall report before the respondent Police, everyday at 10.30 a.m., until further orders;

[c] the petitioner after coming out of bail, shall file an Affidavit of Undertaking within a period of one week, stating that in the event of the respondent seeking for blood samples of the petitioner for DNA test, the petitioner is ready to furnish the same;

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

[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;



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[f] 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]***;

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

19.04.2023

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To

1. The Additional Mahila Court
Egmore, Chennai.
2. The Inspector of Police,
W-6, All Women Police Station,
Ayanavaram, Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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