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Crl.O.P.No.8059 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

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

Crl.O.P.No.8059 of 2023

Selva

... Petitioner

Vs.

The State represented by,
The Sub Inspector of Police,
Perambalur Police Station,
Perambalur District.

(Crime No.472 of 2021).

... Respondent

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.472 of 2021, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.D.Padmanabhan

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 19.02.2023, for the offence punishable under Sections 366 and 344 of IPC and Sections 5(1), 6 of POCSO Act 2012, in connection with Crime No.472 of 2021, registered on the file of the respondent police, seeks bail.

2. It is a case of jumped bail. The petitioner has been arrested on 19.02.2023 on execution of non bailable warrant issued against him.

3. The case of the prosecution as per the de facto complainant Susila is that on 05.05.2021, the petitioner along with other accused kidnapped her minor daughter. Based on the complaint given by the defacto complainant, initially the case was registered by the respondent Police for the offence under Section 366(A) IPC. Later, during the course of investigation, it came to light that the petitioner had sexually assaulted the victim girl. Hence the case.



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4. Learned Counsel for the petitioner submitted that the petitioner/accused No.1 is facing trial in Spl.S.C.No.17 of 2012 on the file of the Principal District and Sessions Judge, Mahila Court, Perambalur. The petitioner was regularly appearing before the Court and due to illness, on 28.12.2022, he could not appear before the Court. Hence, the Court below issued Non Bailable Warrant against the petitioner and the petitioner was arrested and remanded to judicial custody on 19.02.2023 on execution of non bailable warrant. He would submit that the petitioner undertakes that he is ready to co-operate with the trial court. Hence, he prayed for grant of bail to the petitioner.

5. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner did not appear before the trial Court on 28.12.2022 and hence, non bailable warrant was issued against him and that the petitioner was arrested after two months from the date of issuance of non bailable warrant i.e. on 19.02.2023. The trial Court has issued summons to appear before the Court and that the matter is posted on 13.04.2023. Hence, he opposed for grant of bail to the petitioner.



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6. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and perused the entire materials available on record.

7. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel on either side, this Court is inclined to grant bail to the petitioner with certain condition.

8. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** with **two sureties out of which, one shall be a blood related surety**, each for a like sum to the satisfaction of the **learned Principal District and Sessions Judge, Mahila Court, Perambalur**, 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 trial Court on all working days at 10.00 a.m. for a period of two weeks and thereafter, on the dates fixed by the



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trial judge. Further, the petitioner is directed to give an affidavit of undertaking that he will co-operate for the disposal of the case, at the time of executing the bail bond.

[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.

13.04.2023

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A.D.JAGADISH CHANDIRA.,J.

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To

1. The Principal District and Sessions Judge, Mahila Court, Perambalur.
2. The The Sub Inspector of Police,
Perambalur Police Station,
Perambalur District.
3. The Superintendent
Central Prison,
Perambalur.
4. The Public Prosecutor,
High Court of Madras.

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