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CrI.O.P.No.8082 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2023

CORAM

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

CrI.O.P.No.8082 of 2023

Vijay

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
W-24 All Women Police Station,
Tambaram, Chennai
(Crime No. 2 of 2023).

... 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. 2 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.K.Shanmugam

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



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ORDER

The petitioner, who was arrested and remanded to Judicial custody on 29.01.2023, for the offence punishable under Sections 366 of IPC and 5(l), 5(j)(ii) read with 6(1) of Protection of Children from Sexual Offences Act 2012 in connection with Crime No.2 of 2023, registered on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant who is aged about 15 years is that, the petitioner/accused under the guise of marrying her, had committed penetrative sexual assault on her, due to which, she become pregnant and later pregnancy was also aborted. Hence, the complaint.

3. Learned Counsel for the petitioner submitted that the petitioner and the victim are known to each other and that the petitioner without understanding the consequences, had sexual intercourse with the victim girl. Due to which, the victim girl got pregnant and later he understands that her



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pregnancy was aborted and that the petitioner had not committed sexual assault on the victim girl against her will as stated by the prosecution. Even in the statement recorded from the victim girl under Section 164 Cr.P.C., she has not made any serious allegations as against the petitioner. Further he would submit that the petitioner 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 and the victim girl are known to each other and the petitioner, under the guise of marrying the victim, had committed penetrative sexual assault on the victim girl, due to which, the victim girl had become pregnant. 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) for the respondent and perused the entire materials available on record including the statement of the victim 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 on either side and also considering the statement of the victim recorded under Section 164 Cr.P.C., this Court is inclined to grant bail to the petitioner with certain condition.

7. 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 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 report before the HUDCO Police Station, Hosur, 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;



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[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

mfa

To

1. The Special Court for exclusive trial of Cases under POCSO Act, Chengalpattu.
2. The Inspector of Police,
HUDCO Police Station, Hosur
3. The Inspector of Police,
W-24 All Women Police Station,
Tambaram, Chennai
4. The Superintendent,
Sub Jail,
Chengalpattu.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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