



Crl.O.P.No.8898 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2023

CORAM

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

Crl.O.P.No.8898 of 2023

Sathees Kumar

... Petitioner

Vs.

The State represented by
Inspector of Police
W-25, All Women Police Station
T.Nagar, Chennai.
(Crime No.1 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to grant bail to the petitioner pending investigation in Crime No.1 of
2023, on the file of the respondent herein.

For Petitioner : Mr.A.Kasi

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 17.03.2023, for the offences punishable under Sections 9(1) & 10 of POCSO Act, 2012, in Crime No.1 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant Punniyadevi is that she has got two daughters who are aged about 21 years and 17 years respectively and that they were living with her mother-in-law. While so, her mother-in-law had taken steps to get her elder daughter to married to her nephew namely Appu @ Sathees Kumar/the petitioner herein. While being so, the said Appu @ Sathees Kumar/the petitioner herein has misbehaved with the younger daughter of the defacto complainant. Further, he has stated to the victim girl that he would also keep her along with her elder sister so that, she can stay with him in the same house and he also misbehaved with her and attempted to abuse her sexually. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated by the defacto complainant in order to stop the marriage between the petitioner and her



elder daughter. He would further submit the fact remains that the defacto complainant had left the matrimonial home leaving her 2 daughters with the aunt of the petitioner who is none other than the mother-in-law of the defacto complainant and after sometime, she returned back and on finding that her elder daughter's marriage had been fixed with petitioner, she gave a false complaint against the petitioner in order to stop the marriage. He further submitted that the elder daughter of the defacto complainant herself has filed an affidavit of undertaking before this Court stating that only in order to stop the marriage between her and her uncle/the petitioner, her mother has given a false complaint against the petitioner through her younger sister as if, the petitioner attempted to outrage the modesty of her younger sister. He further submitted that the petitioner has been in judicial custody from 17.03.2023 and hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent opposed to grant bail to the petitioner stating that the defacto complainant is the mother of the victim girl. The petitioner and the victim girl are relatives. The marriage between the petitioner and the elder daughter of the defacto complainant had been arranged. While being so, the petitioner has misbehaved with the younger daughter of the defacto complainant and



also attempted the outrage her modesty. He further submitted that the statement of the victim girl has also been recorded under Section 164 Cr.P.C.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) and perused the materials available on record including the FIR, statement of the victim girl recorded under Section 164 Cr.P.C. and also the affidavit of undertaking filed by the elder daughter of the defacto complainant.

6. The elder daughter of the defacto complainant namely Poornima @ J.Jenifer also appeared before this Court and when this Court enquired, she stated that only in order to stop the marriage between her and the petitioner who is none other than her uncle, her mother has given a false complaint against the petitioner through her younger sister as if, the petitioner sexually assaulted her younger sister.

7. Considering the above facts and circumstances of the case and the submissions made by the learned counsel on either side and the affidavit of undertaking filed by the elder daughter of the defacto complainant and also considering the period of incarceration undergone by the petitioner, this



Court is inclined to grant of bail to the petitioner with certain conditions. The affidavit of undertaking dated 25.04.2023 filed by the elder daughter of the defacto complainant namely Poornima @ J.Jenifer, shall form part and parcel of this order.

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 **Special Court for Exclusive Trial of Cases under the POCSO Act, 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 06.30 p.m. 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.

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To

1. The Special Judge,
Special Court for Exclusive trial of cases under POCSO Act,
Chennai.
2. The Inspector of Police
W-25, All Women Police Station
T.Nagar, Chennai.
3. The Superintendent,
Central Prison,
Puzhal.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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