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Crl.O.P.No.9042 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.9042 of 2023

Vijayakumar

... Petitioner

Vs.

The State, Rep. by
Inspector of Police
All Women Police Station
Pollachi, Coimbatore District.
Crime NO.10/2023

... 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.10
of 2023, on the file of the respondent herein.

For Petitioner : Mr.P.Kalimuthu

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 17.03.2023, for the offences punishable under Sections 11(i), 11(iv), 12
of POCSO Act, 2012, in Crime No.10 of 2023 on the file of the respondent
police, seeks bail.



2. The case of the prosecution as per the defacto complainant is that his wife XXX is working as Graduate teach in XXXX Government Higher secondary School and they have got 2 daughters aged 13 years and 9 years respectively. On 16.03.2023, his wife and children informed him that the accused who is their neighbour and retired from BSNL had exposed his private parts to them on several days. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is a senior citizen aged about 68 years and that there was a dispute between the petitioner and the defacto complainant's family due to which, a false case has been foisted against him. He further submitted that the petitioner has been in judicial custody from 17.03.2023 and he is ready to abide by any stringent conditions and hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Criminal Side) for the respondent vehemently opposed to grant bail to the petitioner stating that the petitioner who is the neighbour of the defacto complainant, has exposed his private parts to the minor daughters and wife of the defacto complainant and that the statements of the victims have been recorded under Sections 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.

6. Considering the facts and circumstances of the case and the submissions made by the learned counsel on either side and the period of incarceration undergone by the petitioner, this Court is inclined to grant of bail to the petitioner with certain conditions.

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 **Principal Special Court for Exclusive trial of cases under POCSO Act, Coimbatore**, 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 Nagarkoil and report before the Kottar Town Police Station everyday at 10.30 a.m. until further orders;



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[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.

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To

1. The Principal Special Judge,
Principal Special Court for Exclusive trial of cases under POCSO Act,
Coimbatore.
2. The Inspector of Police
All Women Police Station
Pollachi, Coimbatore District
3. Inspector of Police
Kottar Town Police Station, Nagarkoil
4. The Superintendent,
Central Prison,
Coimbatore.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA,J.,

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