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CrI.OP.No.9664 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.OP.No.9664 of 2023

Robert

... Petitioner/ Sole Accused

Vs.

State of Tamil Nadu
Rep by Inspector of Police,
W-20, All Women Police Station,
Saidapet, Chennai.
(Cr.No.2 of 2023

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner/Accused on bail in connection to the crime registered in Cr.No.2 of 2023 by the respondent police on 26.03.2023.

For Petitioner : M/s.Swarnam J.Rajagopalan

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 27.03.2023 for the offence punishable under Section 9(m), 10 and 12 of POCSO Act in Crime No.2 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 26.03.2023 at about 8.30pm, when the defacto complainant's minor daughter aged about 10 years digging water from the public water pump was subjected to sexual assault by the petitioner/accused by pressed her breast. Hence, the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has been falsely implicated in this case and he is no way connected with the offence as alleged by the prosecution. He would further submit that the petitioner has been suffering incarceration from 27.03.2023. Hence, he seeks for grant of bail to the petitioner.



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4. The learned Additional Public Prosecutor would submit that the petitioner had committed sexual assault against the minor victim girl aged about 10 years. He further submits that the Statement of the victim girl has also been recorded under Section 164 Cr.P.C., Hence, he vehemently opposed to grant bail to the petitioner.

5. It is seen from the statement recorded under Section 164 of Cr.P.C, reveals that the petitioner/accused had attempted sexual assault by putting his hand into the minor victim girl's shirt. The petitioner was arrested and remanded to judicial custody on 27.03.2023.

6. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner, this Court is inclined to grant bail to the petitioner.

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 Mahila Court/Sessions Court/Special Court for Exclusive trial of case under POCSO Act, Chennai** and on further conditions that:



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[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 daily at 10.30am and 5.30pm 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.

[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 absconds, a fresh FIR can be registered under Section 229A IPC.

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G.K.ILANTHIRAIYAN, J.

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To

1. The Mahila Court/Sessions Court/Special Court for Exclusive trial of case under POCSO Act, Chennai
2. The Inspector of Police,
W-20, All Women Police Station,
Saidapet, Chennai.
3. Puzhal Prison, Chennai.
4. The Public Prosecutor,
High Court of Madras,
Chennai

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