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CrI.OP.No.10337 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.05.2023

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

CrI.OP.No.10337 of 2023

Dr. Selvamba

... Petitioner

Vs.

State Rep by

The Inspector of Police,

Valapady Police Station,

Valapady, Salem District.

Crime No.172 of 2023

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.172 of 2023 on the file of the Inspector of Police, Valapady Police Station, Salem District.

For Petitioner : Mr.M.R.Jothimanian

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

ORDER

The petitioner, who was arrested and remanded to judicial custody on 11.04.2023 for the offences punishable under Sections 304(ii), 109, 315 and 308 of IPC read with Section 5(j)(ii), 21(i) and 6 of POCSO Act in Crime No.172 of 2023 on the file of the respondent police, seeks bail.



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2. The case of the prosecution is that, defacto complainant made a complaint before the respondent police alleging that petitioner caused death of Ishwarya, who is aged about 17 years, by inducing labour pain and had also given high dosage of treatment. Hence, the case.

3. It is seen that, originally case was registered for the offence under Section 174 of Cr.P.C., thereafter, it was altered to the offence under Sections 304(ii), 109, 315 and 308 of IPC read with Section 5(j)(ii), 21(i) and 6 of POCSO Act. It is seen from the submission of the learned counsel for the petitioner that, petitioner is a Gynecologist and she has practice of 22 years. While being so, on 06.04.2023, one Ishwarya came to her hospital with her parents. Victim girl was admitted in the labour ward and in order to induce the labour pain, some drugs were given to her. Thereafter, she also delivered a baby and due to illness, baby died. That apart, victim girl also died. Now the case of the prosecution is that, she had given over dose of drug to the victim girl in order to induce the labour pain. Even assuming that the petitioner had given over dose for inducing labour pain, offences did not attract POCSO



4. The learned Additional Public Prosecutor would submit that petitioner had given over dose of treatment for the victim girl to induce labour pain and thereby, victim girl died. Hence, he opposed for grant of bail to the petitioner.

5. Considering the 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.

6. Accordingly, the petitioner is ordered to be released on bail on her 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 Sessions Judge, Principal POCSO Court, Salem** 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.



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[b] the petitioner shall report before the respondent police daily at 10.30.a.m., for a period of two weeks and thereafter as and when required for interrogation.

[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.

05.05.2023

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To

1. Sessions Judge, Principal POCSO Court, Salem
2. The Inspector of Police,
Valapady Police Station,
Valapady, Salem District.
3. Women Sub Jail,
Salem.
4. The Public Prosecutor,
High Court of Madras



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G.K.ILANTHIRAIYAN, J.

Sma

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