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CrI.OP.No.11145 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.05.2023

CORAM

THE HON'BLE MR. JUSTICE **SUNDER MOHAN**

CrI.OP.No.11145 of 2023

Moorthi

...Petitioner

Vs.

The State Represented by its
Inspector of Police,
All Women Police Station,
Arakkonam,
Ranipet District.
Crime No.20 of 2021

...Respondent

PRAYER:Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in Crime No.20 of 2021 on the file of the respondent police.

For Petitioner : Mr.M.Rajinikanth

For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 13.01.2022 for the offence punishable under Sections 323, 342, 376(2)(i), 376(D), 506(ii) IPC and Sections 5(g), 6, 17 of POCSO Act, 2012 r/w 3(1)(r), 3(1)(s), 3(1)(w)(I), 3(2)(v) of SC/ST (POA) Amendment Act, 2015 in Crime No.20 of 2021 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that on 29.12.2021 at about 5 p.m., when the de-facto complainant's daughter went to attend nature's call, A1 to A3 had abducted her and had committed penetrative sexual assault on her. After hearing the hue and cry of the victim girl, one Priya rescued her from the scene of occurrence and took her to their house. Later, the victim was admitted in the hospital. Hence, the complaint.

3. The learned counsel appearing for the petitioner would submit that the petitioner is arrayed as A2. Even as per the FIR, there is no specific overt-act as against the petitioner. The petitioner has nothing to do with the crime as alleged by the prosecution. He was arrested and



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remanded to judicial custody on 13.01.2022. He further submitted that some of the accused were arrested and subsequently released on bail. Now, the respondent had completed the investigation and filed a final report and the same has been taken cognizance by the Trial Court and it is pending for trial in Spl.S.C.No.102 of 2022. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that as per the statement recorded under Section 164 Cr.P.C., there is specific overt-act as against the petitioner. He had also committed penetrative sexual assault on the victim minor girl. Hence, he vehemently opposed grant of bail to the petitioner.

5. This Court finds that the co-accused who are similarly placed had been granted bail in Crl.O.P.Nos.733 of 2022, 4426 of 2023 and 4361 of 2023. Considering the fact that similarly placed accused had been released on bail and the facts and circumstances of the case and the petitioner is in custody from 13.01.2022, this Court is inclined to grant bail to the petitioner.



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6. 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 blood related sureties**, each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of POCSO Cases, Vellore 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 Special Court for Exclusive Trial of POCSO Cases, Vellore, daily Morning at 10.30 a.m., and Evening 05.00 p.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.

[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]**.



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[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

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pvs

To

- 1.The Special Court for Exclusive Trial of POCSO Cases,
Vellore.
2. The Inspector of Police,
All Women Police Station,
Arakkonam,
Ranipet District.
3. The Central Prison,
Vellore,
- 4.The Public Prosecutor,
High Court of Madras



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SUNDER MOHAN, J.

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