



Crl.O.P.No.11746 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 01.06.2023

CORAM:

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

Crl.O.P.No.11746 of 2023

Periyasamy

.. Petitioner

/versus/

The State rep.by
The Inspector of Police,
All Women Police Station,
Central, Coimbatore District.
(Crime No. 6 of 2023)

.. Respondent

Prayer: Criminal Original Petitions are filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail pending investigation in Crime No.6 of 2023 on the file of the respondent police.

For petitioner : Mr.M.N. Balakrishnan

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 14.03.2023, in connection with Crime No.6 of 2023 registered for “Girl Missing” and altered to the offences punishable under Sections 5(1) r/w 6 of Protection of Children from Sexual Offences Act, 2012 and Section 9 of Prohibition of Child Marriage Act @ Sections 5(1) r/w 6, 16 r/w 17 of POCSO Act and Sections 9 & 10 of Prohibition of Child Marriage Act, 2006, on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the de-facto complainant/Priya, is that her minor daughter, aged 14 years, was found missing from 03.02.2023. Based on the complaint, a case in Crime No.6 of 2023 was registered for girl missing. During the course of investigation, it came to light that A1, namely Surya, had kidnapped the minor victim girl and performed child marriage and also committed repetitive penetrative sexual assault on her and the petitioner, who is the brother of A1, had helped A1 in performing the marriage. Hence the case.

3.Learned counsel appearing for the petitioner submitted that



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the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the petitioner is the younger brother of A1 namely Surya and the said Surya is the person, who is said to have kidnapped the victim girl and performed child marriage with her. He further submitted that since the defacto complainant wanted to implicate all the family members of the accused in this case, the petitioner has been falsely implicated in this case. He further submitted that the victim girl has been secured from A1 and major part of the investigation has been completed. He also submitted that the petitioner is in custody from 14.03.2023. Hence, he prayed for grant of bail to the petitioner.

4. Learned Government Advocate (crl.side) appearing for the respondent Police submitted that the petitioner, who is arrayed as A2, is the younger brother of the main accused and the main accused namely Surya had kidnapped the minor victim girl aged 14 years and performed child marriage and also committed repetitive penetrative sexual assault on her. He further submitted that the investigation is still pending. Hence, he opposed for grant of bail to the petitioner.



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5. Heard the learned Counsel for the petitioner and the learned Government Advocate (crl.side) and perused the materials available on record.

6. Taking into consideration the facts and circumstances of the case, 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 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 **learned 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 report before the respondent Police everyday at 10.30 a.m., for a**



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period of four weeks and thereafter, on every Saturday at 10.30 a.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]***;

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

01.06.2023

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A.D.JAGADISH CHANDIRA,J.



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To



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- 1.The Special Court for exclusive Trial of cases under POCSO Act,
Coimbatore.
- 2.The Inspector of Police,
All Women Police Station,
Central, Coimbatore District.
- 3.The Central Prison,
Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.

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