



Crl.O.P.No.12810 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

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

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Murugesan @ Murugesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Arakkonam, Ranipet District.

(Crime No.05 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, in connection with the Crime No.05
of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.G.Vinodh Kumar

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 17.04.2023, for the offences punishable under Sections 5(1), 5(j)(ii), 6 of POCSO Act, 2012, in Crime No.05 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant XXXX, aged 17 years is that the accused was known to her and on 23.10.2022, he had asked her to come to Godown, where he was working, had committed penetrative sexual assault on her against her wish and subsequently, he called her several occasions and committed penetrative sexual assault on her, due to which, she became pregnant. Hence the case.

3. The learned counsel appearing for the petitioner would submit that the petitioner, aged about 23 years and the victim girl are known to each other and there was a love affair between them. He would further submit that the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, had developed an affair and had a consensual physical relationship with the minor victim girl. He would



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also submit that since, the victim girl became pregnant, it came to the knowledge of the parents and the complaint has been lodged against the petitioner and he has been arrested and he is in custody from 17.04.2023. He would also submit that the petitioner understands that statement under Section 164 Cr.P.C., has been recorded from the victim girl, wherein, she had stated that there was a love affair between the petitioner and the victim girl and they had a consensual relationship. Hence, he prays for grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the petitioner had committed repetitive penetrative sexual assault on the minor victim girl, due to which, she became pregnant and later, the pregnancy has been aborted. He would further submit that the statement has also been recorded from the victim girl under 164 Cr.P.C. Hence, he vehemently oppose for grant of bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record including the 164 statement recorded from the victim girl.



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6. Taking into consideration the facts and the submissions made by the learned counsel for the petitioner and also considering the 164 statement recorded from the victim girl that there was a love affair between them, 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 Special Judge for exclusive trial of cases under POCSO Act, 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 respondent Police, everyday at 10.30 a.m., for a period of two weeks and thereafter, 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



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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.

12.06.2023

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To

1. The Special Judge for exclusive trial of cases under POCSO Act 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.

A.D.JAGADISH CHANDIRA.,J.



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