



Crl.O.P.No.12961 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

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

Crl.O.P.No.12961 of 2023

M.Ashok

... Petitioner

Vs.

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

(Crime No.06 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail, in connection with the Crime No.06
of 2023, pending investigation on the file of the respondent Police.

For Petitioner : Mr.S.Amarnath

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.Side)



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CrI.O.P.No.12961 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 15.04.2023, for the offences punishable under Sections 5(1), 6, 5(j)(ii), 7 & 8 of POCSO Act, in Crime No.06 of 2023, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that A1/Sakthivel and the victim girl were acquainted and became friends. On 14.07.2022, the said Sakthivel had come to the house of the victim and they had physical relationship. Thereafter, whenever nobody was in the house of the victim, the said Sakthivel used to come to her house and had physical relationship with her. Due to which, she became pregnant and when she had informed it to her parents, the panchayatars had summoned the said Sakthivel and when they had enquired him, he had denied the relationship and had stated that he is not responsible for the pregnancy. Further the victim had also stated that she had relationship with the petitioner. Based on the complaint, a case in Crime No.06 of 2023 came to be registered for the offence under Sections 5(1), 5(j)(ii), 6, 7 & 8 of POCSO Act, 2012.



CrI.O.P.No.12961 of 2023

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3. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that the victim girl has stated that A1/Sakthivel was having relationship with her and the said Sakthivel had committed penetrative sexual assault on her and she has also stated that the said Sakthivel is responsible for the pregnancy, whereas the said Sakthivel has denied the pregnancy stating that the petitioner is responsible for the pregnancy, but the victim has not stated so. He further submitted that the petitioner understands that the said Sakthivel has filed an affidavit of undertaking before this Court stating that if the DNA proves that he is responsible for the pregnancy, he is ready to marry the victim girl. He further submitted that there is absolutely no allegations as against the petitioner, as if he has committed penetrative sexual assault on the victim girl and he has also filed an affidavit of undertaking stating that if in the event of the DNA proves the paternity of the petitioner, he is ready and willing to marry the victim girl. He also submitted that the main accused has already been granted bail and the petitioner is in custody from 15.04.2023. Hence, he prayed for grant of bail to the petitioner.



Crl.O.P.No.12961 of 2023

WEB COPY

4. Learned Government Advocate (Crl.Side) appearing for the respondent police submitted that the victim girl was earlier having relationship with the petitioner and later, she has also developed friendship with the said Sakthivel, thereby, the victim has alleged that the said Sakthivel is responsible for the pregnancy. He further submitted that during the course of investigation, it came to light that the petitioner was also having relationship with the victim and now the victim became pregnant. He further submitted that DNA test has been conducted and report is awaited. Thereby, he opposed 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.

6. On perusal of the records, it is seen that the victim has not made any specific allegations as against the petitioner, as if the petitioner has committed any offensive act.



CrI.O.P.No.12961 of 2023

WEB COPY

7. Taking into consideration the facts and the submissions made by the learned counsel on either side and also considering the affidavit of undertaking and that the main accused has been enlarged on bail. this Court is inclined to grant bail to the petitioner.

8. 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., 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,



CrI.O.P.No.12961 of 2023

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, Vellore.
2. The Inspector of Police,
All Women Police Station,
Ranipet, Ranipet District.
3. The Central Prison,
Vellore.
4. The Public Prosecutor,
High Court of Madras.



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Crl.O.P.No.12961 of 2023

A.D.JAGADISH CHANDIRA.,J.

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Crl.O.P.No.12961 of 2023

12.06.2023