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CrI.O.P.No.13125 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.06.2023

CORAM

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

CrI.O.P.No.13125 of 2023

Kutty

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
W-5, All Women Police Station,
Chennai.

(Crime No.04 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner on bail pending investigation in connection
with the Crime No.04 of 2023, on the file of the respondent Police.

For Petitioner : Mr.B.Mohan

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



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 14.05.2023, for the offences punishable under Sections 9(m) and 10 of the Protection of Children from Sexual Offences Act, 2012, in Crime No.04 of 2023 on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant, Thanuja Shanmugam, is that on 14.05.2023, the accused who is a AC mechanic, came to the house of the defacto complainant for repairing AC. At that time, he inappropriately touched the minor victim girl aged about 9 years and hugged her and touched her breast. Hence the case.

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 would further submit that there was a dispute between the petitioner and the defacto complainant regarding the repairing of AC, due to which a false complaint has been given. He further submitted that the petitioner is in custody from 14.05.2023 and he is ready to abide by any stringent conditions



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that may be imposed by this Court. Hence, he prayed to grant bail to the petitioner.

4. Learned Government Advocate (CrI.Side) appearing for the respondent police submitted that the petitioner who is a AC mechanic had inappropriately touched the daughter of the defacto complainant aged about 9 years and also hugged her. He further submitted that Statement under Section 164 Cr.P.C., has also been recorded from the minor victim girl, hence, he vehemently opposed to grant bail to the petitioner.

5. Heard the learned Counsel for the petitioner and the learned Additional Government Advocate (CrI.Side) and perused the materials available on record including the Statement recorded from the victim girl under Section 164 Cr.P.C.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel for the petitioner and also considering the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions.



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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 blood related sureties**, each for a like sum to the satisfaction of the **learned Special Court for Exclusive Trial of Cases under POCSO Act, City Civil Court Complex, Chennai District**, 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 stay at Triplicane and report before the Inspector of Police, All Women Police Station, everyday at 10.30 a.m., until further orders. However, it is made clear that the petitioner shall not enter into the jurisdictional limits of the respondent police, 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



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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.

19.06.2023

drl

To

1. The Special Court for Exclusive Trial of Cases
under POCSO Court Act, City Civil Court Complex,
Chennai District.
2. The Inspector of Police,
W-5, All Women Police Station,
Chennai.
3. The Central Prison,
Puzhal, Chennai.
4. The Inspector of Police,
All Women Police Station,
Triplicane.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

drl

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