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Crl.O.P.No.14086 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

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

Crl.O.P.No.14086 of 2023

Rajesh Kumar

... Petitioner

Vs.

The Inspector of Police
All Women Police Station,
Kottakuppam.

Crime No.3 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail in Crime No.3 of 2023 on the file of
the respondent police.

For Petitioner : Mr.B.Thiyagarajan

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

ORDER

The petitioner, who was arrested and remanded to judicial custody
on 01.04.2023 for the offences punishable under Sections 294(b), 323, 342,
417 of IPC r/w Sections 5(1) and 6 of POCSO Act, 2012, in Crime No.3 of
2023 on the file of the respondent police, seeks bail.



2. The case of the prosecution as per the defacto complainant /

Thanusiya Nirmala, is that the accused and her minor daughter were working in a same company. While so, on 29.03.2023, her minor daughter had informed her that the accused, on the false promise of marriage, had committed penetrative sexual assault on her. Hence the case.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and the petitioner and the defacto complainant's minor daughter were working in the same company, during such time, there was a love affair and without understanding the consequences and rigours of the Protection of Children from Sexual Offences Act, they had entered into a consensual relationship and it was opposed by the defacto complainant and thus, she has given a false complaint. He would further submit that the petitioner is in custody from 01.04.2023 for more than 83 days and he is ready to abide by any stringent condition that may be imposed by this Court. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the complaint has been given by the mother of the victim and the petitioner has induced the minor daughter of the defacto complainant aged 17 years and by threatening her, had sexual intercourse



with her multiple times. He would further submit that the statement of the victim girl has been recorded under Section 164 Cr.P.C., wherein, she has stated that she was compelled by the petitioner to have sexual intercourse. Hence, he opposed for grant of bail to the petitioner.

5.At this juncture, the learned counsel for the petitioner would submit that the petitioner is always ready and willing to marry the daughter of the defacto complainant. However, it was objected to by the mother of the victim, thereby, a false complaint has been given against him. Hence, he prayed for grant of bail to the petitioner.

6. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) for the respondent police and perused the materials available on record including the FIR.

7. Considering the above 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 of bail to the petitioner with certain conditions.

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**, (out of which, one surety should be the blood relative of the petitioner), each for a like sum to the satisfaction of the **learned Sessions Judge, Special Court for exclusive trial of cases under POCSO Act, Villupuram**, 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 Chennai and report before the Inspector of Police, Esplanade Police Station, everyday at 10.30 a.m., until further order.

[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 petitioners 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.



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To

1. The Sessions Judge,
Special Court for exclusive trial of cases under POCSO Act, Villupuram.
2. The Inspector of Police
All Women Police Station,
Kottakuppam.
3. The Sub Jail,
Villupuram.
4. The Public Prosecutor,
High Court of Madras.

A.D.JAGADISH CHANDIRA,J.,

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