



Crl.O.P.No.13890 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

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

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Sakthivel

... Petitioner

Vs.

Station House Officer,
Thirunallar Police Station,
Thirunallar.

(Crime No.39 of 2023).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner/accused on bail, in connection with the
Crime No.39 of 2023, pending investigation on the file of the respondent
Police.

For Petitioner : Mr.S.P.Vijayaragavan

For Respondent : Mr.K.S.Mohan Dass
Public Prosecutor (Puducherry)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 11.05.2023 for the offences punishable under Sections 323 IPC and 10 of POCSO Act, 2012 in Crime No.39 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution as per the defacto complainant/ Nithya is that on 26.04.2023, the accused, who is a neighbour, had inappropriately touched her minor daughter's buttocks and he has also sprinkled water on her with syringe and later, again on 29.04.2023, while her daughter was taking a wash, the accused had taken video of the same. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner and the defacto complainant are neighbours and there exists a previous enmity between them on account of a case registered in Crime No. 2 of 2018, which is culminated into a final report in C.C.No.703 of 2022 on the file of the Judicial Magistrate No.I, Karaikal. He further submitted that



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only in order to strengthen the earlier case, a false complaint has been given.

He further submitted that the petitioner is aged about 21 years and that though the alleged occurrence was stated to have happened on 26.04.2023 and 29.04.2023, the complaint has been given after three days on 02.05.2023.

He also submitted that the petitioner is in custody from 11.05.2023 and that the major part of the investigation has been completed. 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 being a neighbour, had inappropriately touched the minor victim girl's buttocks and sprinkled water on her and also taken video of her, while she was taking wash. He further submitted that the investigation is still pending and the mobile of the petitioner was recovered. Hence, he opposed for grant of bail to the petitioner.

5. 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 statement recorded from the



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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 on either side and also considering 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**, out of which, one should be either the mother or father of the petitioner, each for a like sum to the satisfaction of the **learned Special Judge for exclusive trial of cases under POCSO Act, Karaikal** 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 Pondicherry and report before the Inspector of Police, D Nagar Police Station, Pondicherry, everyday at 10.30 a.m and 5.30 p.m., until further orders; However, it is made clear that the petitioner shall not enter into the



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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 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.

26.06.2023

vk

To

1. The Special Judge for
exclusive trial of cases under POCSO Act,
Pondicherry.
2. The Inspector of Police,
D Nagar Police Station,
Pondicherry.



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A.D.JAGADISH CHANDIRA.,J.

vk

3. Station House Officer,
Thirunallar Police Station,
Thirunallar.
4. The Central Prison,
Pondicherry.
5. The Public Prosecutor,
High Court of Madras.

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