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CrI.O.P.No.13863 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.06.2023

CORAM:

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

CrI.O.P.No.13863 of 2023

Vijay

... Petitioner

/versus/

The State Represented by
Inspector of Police,
All Women Police Station,
SRMC, Chennai
(Crime No.07 of 2023)

... Respondent.

Prayer: Criminal Original Petition is filed under Section 439 of Criminal Procedure Code, praying to enlarge the petitioner on bail in the above crime number 7 of 2023 on the file of the respondent police.

For petitioner : Mrs.R.Girija
For Respondent : Mr.C.E.Pratap,
Government Advocate (CrI.Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 10.05.2023, in connection with Crime No.7 of 2023 registered under Sections 3 (a) r/w 4 of POCSO Act, 2012 and 366A of IPC on the file of the respondent Police, seeks bail.



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2. The case of the prosecution as per the de-facto complainant Prakash is that during Corono period (Covid-19) his minor daughter was studying 12th Standard in his sister's place, during such time, he came to know that her daughter was in love with one Vijay and thereafter he had taken her mobile phone from her daughter and thereafter her daughter was studying well. While so, on 17.04.2023 at 9.30 p.m, when he came back from home, he had seen that his daughter speaking with Vijay and he had assaulted the said Vijay and handed over him to K-8, Arumbakkam Police Station, Chennai and later after enquiry, the case was forwarded to All Women Police Station and on enquiry, his daughter has informed that the said Vijay had induced her and had sexually assaulted her. Hence, the case.

3. The learned counsel appearing for the petitioner submitted that the petitioner is an innocent and a case of love affair has been projected as a case of kidnap and penetrative sexual assault and he would further submit that the petitioner and the victim girl are known to each other for more than three years. He would further submit that there was a love affair between them, since it came to the knowledge of the defacto complainant/father of the victim , he had given a false complaint as if the



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petitioner had forcefully committed penetrative sexual assault with his minor daughter . He would further submit that the petitioner is in custody from 10.05.2023 and the major part of the investigation is over. Hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate (crl.side) appearing for the respondent Police submitted that though the petitioner has alleged that, there was a love affair between them, the victim girl in her 164 Statement had stated that the accused had threatened her by showing their private video and compelled her to have sex with him. He also submit that the mobile phone has been recovered. Hence, he opposed for grant of bail to the petitioner.

5. By way of reply, the learned counsel for the petitioner submitted that in the FIR no allegations has been made as against the petitioner, as if he had made a video recording and threatened the victim. Further, the petitioner understands that statement of the victim girl has been recorded under Section 161 Cr.P.C wherein she has not made any allegations as to recording of their private video and she had also admitted the love affair and later on the instigation of her father she has given exaggerated statement against the petitioner. He would further



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submit that the petitioner is working in a mobile shop and he is ready to abide by any stringent condition and thereby he would seek 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 CD File, FIR and the statement of the victim girl recorded under Sections 161 and 164 of 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 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**, each for a like sum to the satisfaction of the **learned District Mahila Judge(Fast Track Court) Thiruvallur** and on further conditions that:



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[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 Villupuram and report before the Inspector of Police, Town Police Station, Villupuram every day 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, 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



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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.

Vv

21.06.2023

To

- 1.The **District Mahila Judge(Fast Track Court)**
Thiruvallur.
- 2.The Inspector of Police,
All Women Police Station,
SRMC, Chennai
- 3.The Central Prison,
Puzhal.
- 4.The Public Prosecutor,
High Court, Madras.



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A.D.JAGADISH CHANDIRA,J.

Vv

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