



Crl.OP.No.14622 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2023

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

Crl.OP.No.14622 of 2023

V.Kumaresan

... Petitioner

Vs.

The State Represented by
The Inspector of Police,
All Women Police Station,
Kallakkurichi, Kallakkurichi District
(crime No.22 of 2022)

... Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail pending trial in Spl.SC.No.218 of
2022 on the file of the Sessions Judge, Special Court for Exclusive Trial
of Cases under POCSO Act, Villupuram.

For Petitioner : Mr.S.Shankar

For Respondent : Mr.R.Kishore Kumar,
Government Advocate
(crl.side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 08.10.2022 for the alleged offences punishable under Sections 342, 506(i) of IPC and Sections 5(m), 5(n), 5(i), 5(l) r/w 6 of POCSO Act and Section 4 of Tamilnadu Women's Harassment Act and 75 of the Juvenile Justice Act in Crime No.22 of 2022 on the file of the respondent police, pending trial in in Spl.SC.No.218 of 2022 on the file of the Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, seeks bail.

2. The case of prosecution is that the victim girl is aged about 8 years. The petitioner is none other than her own father. In the absence of his wife, he sexually assaulted her while she was sleeping. Hence, the case.

3. The learned counsel for the petitioner submitted that the petitioner is working as a lorry driver and he used to visit his home once in a month. Therefore, his wife developed an illegal relationship with one,



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Selvakumar and in the absence of the petitioner, they had physical relationship. When it was questioned by the petitioner, the defacto complainant lodged false complaint by tutoring his own daughter. The petitioner was also detained under Goondas Act and subsequently his detention order was quashed by this Court in HCP.No.2348 of 2022 by an order dated 24.04.2023. Now the respondent completed investigation and filed final report and the same has been taken cognizance in Spl.SC.No.218 of 2022 and it is pending for trial on the file of the Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram. Hence, he prayed to grant bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for respondent would submit that the petitioner is being own father of the victim had committed very serious and heinous offence as against the minor victim girl. He also produced statement recorded under Section 164 of Cr.P.C. Hence, he vehemently opposed to grant bail to the petitioner.

5. On perusal of statement recorded under Section 164



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of Cr.P.C. from the victim girl, revealed that the petitioner had sexually assaulted her while she was sleeping. The petitioner also produced FIR registered in crime No.23 of 2022 in a complaint lodged by one, Jiyana who is the wife of the said Selvakumar, in which the defacto complainant in the present case is also an accused. Therefore, when the petitioner questioned about the illegal intimacy of the defacto complainant with the said Selvakumar, the present complaint has been lodged as against the petitioner.

6. Considering the above facts and circumstances of the case and also the period of incarceration by the petitioner from the date of his arrest i.e. 08.10.2022, 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 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 Sessions Judge, Special Court for Exclusive Trial of Cases under



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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 report before the trial court i.e. Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram daily at 10.30 a.m. and 05.30 p.m. until further orders

(c) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(d) the petitioner shall not abscond 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 petitioners 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]; and;

(f) if the accused thereafter absconds, a fresh FIR can be



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registered under Section 229-A IPC.

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G.K.ILANTHIRAIYAN, J.

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To

- 1.Sessions Judge, Special Court for Exclusive Trial of Cases
under POCSO Act, Villupuram
- 2.The Inspector of Police,
All Women Police Station,
Kallakkurichi, Kallakkurichi District
- 3.The Central Prison,
Cuddalore
- 4.The Public Prosecutor,
High Court, Madras

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