



Crl.O.P.No.15969 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2023

CORAM

THE HONOURABLE MR. JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P. No.15969 of 2023

Gowtham

... Petitioner

Vs.

The State represented by Inspector of Police,
All Women Police Station,
Udumalpet
Tiruppur District.
Crime No.8 of 2023

... Respondent

*[Amended as per order dated 21.08.2023 in
Crl.M.P.No.11355 of 2023 in Crl.O.P.15969 of 2023]*

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in connection with the case in Crime No.8 of 2023 on the file of the respondent.

For Petitioner : Mr.R.Kannan

For Respondent : Mr.S.Balaji
Government Advocate (Crl. Side)



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ORDER

This is the second bail application filed by the petitioner, who was arrested and remanded to judicial custody on 09.05.2023 in Crime No.8 of 2023 on the file of the respondent Police, for the offences punishable under Sections 376, 511, 447 & 354A(1)(i) IPC.

2.The case of the prosecution is that, on 09.05.2023, when the *de facto* complainant's wife/victim, who is the native of Uttar Pradesh, was alone at her house, the accused had trespassed into the *de facto* complainant's house and attempted to commit rape on her and outraged her modesty. Further, she has also sustained injuries. Hence, the case.

3.Learned counsel for the petitioner would submit that this is the second application for bail. Earlier application for bail in Crl.O.P.No.13127 of 2023 was dismissed on 22.06.2023. He would submit that the petitioner is in custody from 09.05.2023 and the respondent has completed the investigation and filed the final report and the case is now committed to the trial Court, namely, Mahila Court, Tiruppur, and pending trial in S.C.No.237 of 2023. He would submit that the petitioner has to engage a counsel and conduct the case.



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He would further submit that, even as per the prosecution, the allegation against the petitioner is that he had attempted to commit rape on the victim and outraged her modesty. He would also submit that the petitioner is aged about 23 years and the petitioner has filed an affidavit, undertaking that he would abide by any stringent conditions that may be imposed on him by this Court, thereby, he seeks for bail.

4.Learned Government Advocate (Crl. Side) would submit that it is the case where the petitioner had trespassed into the victim's house, attempted to commit rape on her and outraged her modesty and assaulted her resulting in her sustaining grievous injuries. He would submit that the investigation has been completed and the final report has been filed and the case is pending trial in S.C.No.237 of 2023 on the file of the Mahila Court, Tiruppur, and the case stands posted on 29.08.2023 for production of the accused. He would submit that there are 22 witnesses and there is an apprehension that the petitioner would threaten the witnesses and thereby, objected for grant of bail.

5.At this juncture, the learned counsel for the petitioner would submit that the petitioner is a resident of Thottampatti Village, which is 38 km from Tiruppur and the petitioner undertakes that he will not enter his village till the



completion of the trial.

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6.Heard the learned counsel on either side and perused the materials available on record.

7.Taking into consideration the fact that the case is now pending trial, the period of incarceration, and the age of the petitioner, this Court is inclined to grant bail. Accordingly, this Court grants bail to the petitioner on the following conditions:-

- (a) The petitioner is ordered to be released on bail on executing his own bond for a sum of Rs.15,000/- (Rupees fifteen thousand only), with two sureties, out of which, one shall be a blood relative, each for a likesum to the satisfaction of Judicial Magistrate No.1, Udumalpet.
- (b) The sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;
- (c) The petitioner shall stay at Tiruppur and report before the trial Court, i.e., Mahila Court, Tiruppur, on all working days at 10.30 a.m., until further orders.
- (d) It is made clear that the petitioner shall not enter into the jurisdictional



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limits of the respondent Police Station.

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(e) The petitioner shall not commit any offences of similar nature.

(f) The petitioner shall not abscond either during investigation or trial.

(g) The petitioner shall not tamper with evidence or witness either during investigation or trial.

(h) On breach of any of the aforesaid conditions, the learned Judicial 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].

(i) If the accused, thereafter, absconds, a fresh FIR can be registered under Section 229A IPC.

This Criminal Original Petition is ordered accordingly.

25.08.2023

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A.D.JAGADISH CHANDIRA, J.
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To

- 1.The Sessions Judge,
Mahila Court,
Tiruppur.
- 2.The Judicial Magistrate No.I,
Udumalpet.
- 3.The Superintendent,
Sub-Jail, Udumalpet.

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