



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

Crl.O.P.No.15404 of 2023

Surya

Petitioner

Vs...

The State represented by
The Inspector of Police,
All Women Police Station,
Pennagaram, Dharmapuri District.
(Crime No.7 of 2023).

Respondent

Prayer:- Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No.7 of 2023 on the file of the Inspector of Police, All Women Police Station, Pennagaram, Dharmapuri District.

For Appellant : Mr.J. Titus Enock

For Respondent : Mr.N. Muthuvel
Government Advocate
(Crl. Side)

ORDER

The petitioner, who was arrested and remanded to judicial custody on 04.03.2023, for the alleged offence under Section 5(1), 5(n) r/w Section 6(1) of POCSO Act and Section 506(i) IPC, in Crime No.7 of 2023 on the file of the respondent police, seeks bail.



2. The case of the prosecution is that the petitioner had sexual intercourse with the victim girl, who aged about 17 years and threatened her not to disclose about the said incident to anyone. Hence, the complaint.

3. The learned counsel for the petitioner would submit that the petitioner is an innocent person and he has not committed any offence as alleged by the prosecution. He further submitted that the petitioner and the victim girl was in love and with the consent of the victim girl, he had sexual intercourse with the victim girl.

4. He has further submitted that the investigation has been completed and charge sheet has also been filed under Sections 5(1), 5(n) r/w Section 6(1) of POCSO Act, and Section 506(i) IPC and 363, 366 of IPC. The petitioner is suffering incarceration from 04.03.2023 and this is the 2nd bail application since earlier bail application in Crl. O.P. No.11357 of 2023 was dismissed on 17.05.2023 by this Court. The petitioner is a law abiding citizen and ready to furnish substantial sureties and ready to abide by any condition imposed by this Court for granting bail. Hence, he prayed to grant bail to the petitioner.



5. Per contra, the learned Government Advocate (Crl.Side) would submit that the investigation has been completed and charge sheet has been filed in this case and the same has been taken on file. However, considering the age of the victim and the gravity of the offence, he opposed to grant bail to the petitioner.

6. Considering the facts and circumstances of the case and also considering incarceration period, and considering the fact that charge sheet has been filed and the same has been taken on file for Trial, 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 **Fast Track Mahila Court, Dharmapuri**, and on further condition that:

[a] the petitioner and 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 appear before the Trial Court concerned on every hearing without fail 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 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 absconds, a fresh FIR can be registered under Section 229A IPC.

13.07.2023

Lbm



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To

1. Fast Track Mahila Court, Dharmapuri,
2. The Superintendent
Central Prison, Dharmapuri.
3. The Inspector of Police,
All Women Police Station,
Pennagaram, Dharmapuri District.
4. The Public Prosecutor,
High Court, Madras.



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A.A.NAKKIRAN.,J

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