



Crl.O.P.No.16431 of 2023

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WEB CO **A.D.JAGADISH CHANDIRA, J.**

The petitioner, who was arrested and remanded to judicial custody on 27.04.2023 for the offence punishable under Sections 363, 366, 506(ii) of IPC and Sections 5(1), 5(n) and 6 of POCSO Act r/w Section 9 of Child Marriage Prohibition Act, in connection with Crime No.105 of 2023, on the file of the respondent Police, seeks bail.

2. The case of the prosecution is that the petitioner, who is a married man aged about 32 years, had kidnapped the minor victim girl, aged about 15 years and committed repetitive penetrative sexual assault on her. Hence the case.3

3.The learned counsel for the petitioner submitted that this is the third application for bail filed by the petitioner. He further submitted that the investigation has been completed and the charge sheet has been filed. He further submitted that the petitioner and the victim girl are close relatives



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and there was a quarrel between the parents of the victim and the victim had come along with the petitioner and other than taking the victim girl, the petitioner has not committed any penetrative sexual assault on the victim. He further submitted that the petitioner, understands that the statement has been recorded from the victim girl under Section 164 Cr.P.C, wherein, she has not made any allegation of sexual assault against him. He also submitted that the petitioner is in custody from 27.04.2023 and hence, he prayed for grant of bail to the petitioner.

4. The learned Government Advocate appearing for the respondent Police submitted that it is a case where the petitioner, who is a married man aged about 32 years, had kidnapped the minor victim girl, aged 15 years and had committed repetitive penetrative sexual assault on her. He further submitted that though the victim has not stated anything about the petitioner having committed penetrative sexual assault in the statement recorded under Section 164 Cr.P.C, initially at the time of examining the victim, she has stated in the statement under Section 161 Cr.P.C that the petitioner has kidnapped her and performed child marriage on her and later, committed



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repetitive penetrative sexual assault on her. He further submitted that it has also been confirmed by the medical evidence and this Court earlier taking into consideration all these aspects, had dismissed the earlier application. He also submitted that there is no change of circumstances and that the petitioner being a relative of the victim girl, there is every possibility for the petitioner to interfere with the administration of the justice and by threatening the witnesses. Thereby, he would seek for dismissal of this petition.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate and perused the entire materials available on record.

6. Admittedly, the victim has not stated anything about the petitioner having committed penetrative sexual assault on her in the statement recorded under Section 164 Cr.P.C and on perusal of the CD files would show that the petitioner had kidnapped the minor victim girl and when the statement was recorded under Section 161 Cr.P.C, she has stated about the act committed by the petitioner. Further, it is also the case of the



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prosecution that the medical evidence also confirms that the victim had been subjected to repetitive penetrative sexual assault. This Court is of the opinion that it is not a case for grant of bail at this stage.

7. Hence, this Criminal Original Petition is dismissed.

25.07.2023

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