



WEB COPY



CrI.OP.No.16906 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.08.2023

CORAM

THE HON'BLE MR. JUSTICE **G.CHANDRASEKHARAN**

CrI.OP.No.16906 of 2023

Kumaravel

..Petitioner

Vs.

The State Rep. By
The Inspector of Police,
All Women Police Station,
Gingee,
Villupuram District.
Crime No.10 of 2023

...Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in Crime No.10 of 2023.

For Petitioner : Mr.G.Paramasivam

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



WEB COPY



CrI.OP.No.16906 of 2023

ORDER

The petitioner, who was arrested and remanded to judicial custody on 29.04.2023 for the offences punishable under Sections 342, 506(i) of IPC, 1860 and Section 6 of POCSO Act in Crime No.10 of 2023, on the file of the respondent police seeks bail.

2. The learned counsel for the petitioner submitted that, there is a previous enmity between the family of the victim girl and the petitioner. Due to previous enmity, false complaint is given against the petitioner. He further submitted that, there is a delay of five days in giving complaint. The incident of the sexual assault is alleged to have happened on 23.04.2023 and the complaint was given on 28.04.2023. Petitioner is in Judicial Custody from 29.04.2023 and thus, he seeks bail to the petitioner.

3. In response, learned Additional Public Prosecutor submitted that, petitioner forced the victim girl to love him. When that was refused by the victim girl, he had forcibly committed penetrative sexual assault. The statement of the victim girl under Section 164 of Cr.P.C., was also recorded.



Crl.OP.No.16906 of 2023

4. The perusal of the statement of the victim girl recorded under Section 164 of Cr.P.C., shows that, petitioner wanted the victim girl to love him. However, victim girl refused to love the petitioner. On 24.03.2023, petitioner visited the house of the victim girl and when there was no one, except the victim girl, petitioner touched her. After that, she did not know, what had happened. When she woke up, she found that, her dress was disturbed. She informed her mother that, she felt stomach pain.

5. On the instruction of this Court, Medical Report of the victim girl was produced. To a question whether victim girl had suffered intercourse, the answer given was “It is not possible to give answer, hymen intact”. It is also said that, “penetrative sexual contact cannot be ruled out, because she had loss of consciousness during event”. It was also found that, there was no injury on her private part.

6. From the medical report produced, it is not certain as to whether the victim girl was sexually assaulted by the petitioner, especially penetrative sexual assault. In the said circumstances, this Court, considering the duration of the custody of the accused ie from



Crl.OP.No.16906 of 2023

29.04.2023 and that the material part of the investigation is over, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/-** (Rupees Twenty Five thousand only) with **two sureties**, each for a like sum to the satisfaction of the learned **Special Court for Exclusive Trial of Cases under POCSO Act Court at 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 respondent police daily 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.



CrI.OP.No.16906 of 2023

[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].

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

01.08.2023

Sma

To

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



WEB COPY



Crl.OP.No.16906 of 2023

G.CHANDRASEKHARAN. J.

Sma

Crl.O.P.No.16906 of 2023

01.08.2023