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Crl.O.P.No.18646 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM

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

Crl.O.P.No.18646 of 2023

Manikandan

...Petitioner

Vs.

State By:

The Inspector of Police,
All Women Police Station,
Polur, Thiruvannmalai District.
Cr.No.08 of 2023

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in Cr.No.08 of 2023 on the file of the Inspector of Police, All Women Police Station, Polur, Thiruvannmalai District.

For Petitioner : Mr.S.Silambuselvan

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial



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custody on 17.07.2023 for the offences punishable under Sections 376(2)(n) of IPC and Section 5(1), 5(j)(ii) and 6(1) of POCSO Act 2012 in Crime No.08 of 2023 on the file of the respondent, seeks bail.

2. It is the submission of the learned counsel for the petitioner that petitioner is innocent and he is falsely implicated in this case in Crime No.08 of 2023 registered for the offence under Sections 376(2)(n) of IPC and Section 5(1), 5(j)(ii) and 6(1) of POCSO Act 2012. Thus, he seeks bail.

3. Learned Additional Public Prosecutor submitted that, victim girl is 17 years old and she is a mentally challenged person. Her intellectual ability is at 40%. He also produced the 164 Cr.P.C. Statement of the victim girl.

4. Reading of the 164 Cr.P.C. Statement of the victim girl shows that she was in love with one Sivaraj and the said Sivaraj used to have sexual relationship with her. She specifically stated that petitioner Manikandan had not indulged in sexual relationship with her. This statement of the victim girl was recorded by the learned Judicial Magistrate, after ascertaining through several questions about her mental



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capacity to understand the questions of the learned Judicial Magistrate.

Therefore, from the 164 Cr.P.C. Statement of the victim girl, this Court finds that, there is no incriminating statement given by the victim girl against the petitioner that he had indulged in penetrative sexual assault against the victim girl.

5. In the said circumstances, this Court is inclined to grant bail to the petitioner and 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 Sessions Judge, Special Court (POCSO Act cases) Tiruvannamalai**, 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.



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[d] the petitioner shall not tamper with evidence or witness 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.

16.08.2023

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To

- 1.The Sessions Judge, Special Court (POCSO Act cases),
Tiruvannamalai.
- 2.The Central Prison, Vellore.
- 3.The Inspector of Police,
All Women Police Station,
Polur, Thiruvannmalai District.
- 4.The Public Prosecutor,
High Court of Madras.

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