



CrI.OP.No.19028 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2023

CORAM

THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.OP.No.19028 of 2023

Karthikeyan

...Petitioner

Vs.

The State Rep by
The Inspector of Police,
Sirupakkam Police Station,
Cuddalore District.
(Crime No.425 of 2021)

...Respondent.

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail in connection with the case in Crime No.425 of 2021 pending investigation on the file of the respondent Police.

For Petitioner : Mr.K.Sudhakar

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 22.07.2023 for the offences punishable under Sections 11, 12 of POCSO Act and Section 506(i) of IPC in Crime No.425 of 2021 on the file of the respondent police, seeks bail.

2.It is the submission of learned counsel for the petitioner that petitioner was granted anticipatory bail in Cr.No.425 of 2021 registered for the offences under Section 11, 12 of POCSO Act and 506 (i) of I.P.C by this Court in Crl.O.P.No.25801 of 2021. Petitioner was observing condition and appearing before the respondent Police every Tuesday at 05.30 p.m. as per the anticipatory bail order. However, on 22.03.2022, at the instance of defacto-complainant in Cr.No.425 of 2021, petitioner was attacked brutally by rowdy elements. However, due to influence exercised by defacto-complainant, on the basis of complaint given by him, First Information Report in Cr.No.71 of 2022 was registered under Sections 354 (D), 294 (B), 323, 506 (ii) I.P.C. The allegations made in the First Information Report in Cr.No.71 of 2022 are totally false and that, First Information Report was registered only to harass the petitioner.



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On the next day of attack against petitioner, petitioner's father gave a complaint to the higher officials on 23.03.2022. Because of the brutal attack made against the petitioner, petitioner suffered pain on his eye, face and on his private part. Therefore, he was taken to the Government Hospital by the Police officials. However, without considering these aspects, petitioner's anticipatory bail granted in Crl.O.P.No.25801 of 2021 was cancelled on the petition moved by the defacto-complainant in Crl.M.P.No.721 of 2022 by the learned Special Judge (POCSO Court), Cuddalore. Challenging the dismissal of Crl.M.P.No.721 of 2022, petitioner filed Crl.O.P.No.13562 of 2023. When this petition was pending, petitioner was arrested and therefore, Crl.O.P.No.13562 of 2023 was dismissed as withdrawn. Subsequently, petitioner filed Crl.M.P.No.1098 of 2023 on the file of the Special Judge for Exclusive Trial of POCSO Cases, Cuddalore seeking bail. That petition is dismissed and therefore, present petition is filed. In support of his submission, he produced copies of representation given by petitioner's father dated 23.03.2022 and medical treatment recorded dated 25.03.2022.



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3. In reply, the learned Additional Public Prosecutor strongly opposed this petition on the ground that when petitioner was granted anticipatory bail in CrI.O.P.No.25801 of 2021 with certain conditions, petitioner had committed the offences reported in Cr.No.71 of 2022. Therefore, anticipatory bail granted to the petitioner in CrI.O.P.No.25801 of 2021 was rightly cancelled.

4. Considered the rival submissions and perused the records.

5. From the narration of the facts, it is seen that the anticipatory bail granted in CrI.O.P.No.25801 of 2021 was cancelled for the reason that petitioner had committed offences concerned in Cr.No.71 of 2022. It is the submission of learned counsel for the petitioner that the truth of the matter is that it was the petitioner who was brutally attacked by some rowdy elements at the instance of defacto-complainant. Due to the influence exercised by the defacto-complainant, First Information Report in Cr.No.71 of 2022 was registered against the petitioner. As already indicated, he produced representation given by his father and medical



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treatment records. The medical treatment record does not indicate the nature of the injuries suffered by the petitioner. However, it points to a fact that petitioner was taken to medical treatment while he was in judicial custody, meaning thereby, he suffered certain difficulty, probably due to the alleged assault made against him by certain rowdy elements at the instance of defacto-complainant. Mere registration of FIR in Crime No.71 of 2022 is not a ground to cancel the anticipatory bail order. In such circumstances, this Court is of the view that the cancellation of anticipatory bail and subsequent dismissal of bail petition are not justified. Thus, this Court is inclined to grant bail to the petitioner with certain conditions.

6. 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 Judge for the Exclusive Trial of POCSO Cases, Cuddalore** and on further conditions that :-

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the



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Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the Special Judge for the Exclusive Trial of POCSO Cases, Cuddalore on all working days at 10.00.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.

[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.

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To

1. Special Judge for the Exclusive Trial of POCSO Cases, Cuddalore
2. The Inspector of Police,
Sirupakkam Police Station,
Cuddalore District.
3. Central Prison,
Coimbatore.
4. The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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