



Crl.O.P.No.20654 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

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

Crl.O.P.No.20654 of 2023

Rakki @ Ayyanaar

...Petitioner

Vs.

State Rep by
The Inspector of Police,
All Women Police Station,
Tirukoilur,
Kallakurichi District.
(Cr.No.11 of 2023)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. to enlarge the petitioner on bail in Spl.SC.No.72 of 2023 pending on the file of the learned Session Judge, Magalir Neethi Mandram (Fast Track Mahila Court) at Villupuram.

For Petitioner : Mr.S.Sivakumar

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor

ORDER

The petitioner, who was arrested and remanded to judicial custody



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on 17.04.2023 for the offences punishable under Section 354 (D), 354 (A), 342, 506 (ii) of I.P.C. r/w Section 3 and 4 of POCSO Act. Subsequently, altered into offences under Section 354 (D), 354 A, 342, 506 (2) I.P.C and Section 4 of Protection of Child from Sexual Offences Act, 2012 and Section 4 of Protection of Harassment of Women Act, 2002, in Cr.No.11 of 2023 on the file of the respondent Police, seeks bail.

2.The learned counsel for the petitioner submitted that, petitioner is an accused in Crime No.11 of 2023 for the offences under Sections 354(d), 354(a), 342, 506(ii) IPC r/w Section 3 and 4 of the POCSO Act. Subsequently, altered into offences under Section 354 (D), 354 A, 342, 506 (2) I.P.C and Section 4 of Protection of Child from Sexual Offences Act, 2012 and Section 4 of Protection of Harassment of Women Act, 2002. It is his submission that, the victim girl and petitioner fell in love with each other and for the said reason, this case is registered falsely against the petitioner. Petitioner has not committed any offence, especially the offences under POCSO Act. He is in judicial custody from



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17.04.2023. Thus, he prays for grant of bail.

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3.In response, the learned Additional Public Prosecutor vehemently oppose this petition, on the ground that, the victim girl was forcibly taken and was raped by the petitioner. He further submitted that, petitioner committed offence of aggravated sexual assault against the victim girl. The investigation in this case is not completed and therefore, he prays for dismissing the petition.

4.In reply, the learned counsel for the petitioner showing the 161 Cr.P.C statement of victim girl stated that it was not a case of forcible sexual relationship. In fact, the petitioner and victim girl fell in love with each other. Victim girl used to call petitioner through the cellphone of defacto-complainant bearing No.8940557946.

5.Considered the rival submissions and perused the records.



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6.The reading of 161 Cr.P.C statement of victim girl confirms that petitioner and victim girl who started as friends, fell in love with each other and the victim girl used to call the petitioner through the aforesaid cellphone. Now it is claimed that petitioner had forcible sexual relationship with the victim girl.

7.In the circumstances stated above where a claim is made that victim girl fell in love with petitioner and had sexual relationship, and having regard to the fact that petitioner is in judicial custody from 17.04.2023, and that investigation is completed and final report is filed in Spl.S.C.No.72 of 2023 on the file of POCSO Court, Villupuram, this Court is inclined to grant bail to the petitioner with conditions.

8.Accordingly, 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 Session Judge, Magalir Neethi Mandram (Fast Track**



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Mahila 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 daily 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.The Session Judge, Magalir Neethimandram,
(Fast Track Mahila Court)
Villupuram
- 2.District Prison,
Villupuram.
- 3.The Inspector of Police,
All Women Police Station,
Tirukoilur,
Kallakurichi District.
- 4.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN. J.

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