



**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

DATED: 01.09.2023

CORAM:

**THE HON'BLE Dr. JUSTICE G.JAYACHANDRAN**

Crl.O.P.No.20227 of 2023

Yeasu @ Nethaji

.. Petitioner/ Accused

Vs.

State rep by  
The Inspector of Police,  
All Women Police Station,  
Nagapattinam.  
(Crime No. 23/2023)

... Respondent

**PRAYER:** Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime No.23 of 2023 pending investigation on the file of the respondent police.

For Petitioner : M/s.Thiyagarajan.B

For Respondent : Mr.S.Rajakumar  
Additional Public Prosecutor

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## **ORDER**

**WEB COPY** Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the State.

2. For an incident took place on 02.08.2023, the mother of the victim girl aged 15 years has given a complaint on 08.08.2023 before the respondent police. This petitioner was arrested on 08.08.2023. As per the First Information Report, the daughter of the defacto complainant was caught by hand by the petitioner herein and was forced to kiss him. The victim girl has escaped from the clutches of the petitioner and had reported the matter to her mother. After six days her mother came forward to give a complaint to the respondent police and accordingly, the case under Sections 7 & 8 of POCSO Act has been registered.

3. This Court directed the learned Additional Public Prosecutor to produce the CD file and on perusal of the CD file, this Court finds that there is no request to the concerned Magistrate for recording statement under Section 164 Cr.P.C., of the minor victim and there is no medical report.



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4. However, the learned Additional Public Prosecutor appearing for the respondent states that the victim girl was subjected to medical examination and medical certificate has been obtained and also states that the victim girl is likely to be produced before the Judicial Magistrate today for recording statement under Section 164 Cr.P.C.

5. The learned counsel appearing for the petitioner states that the complaint is frivolous complaint in order to settle the property dispute. The defacto complainant is related to the petitioner. Already a complaint was given before the local police and after enquiry, the local police advised the party to settle the civil dispute before the appropriate Court. Being aggrieved, the false complaint been given in the All Women Police Station.

6. Considering the fact that the Investigation Officer has registered the complaint and arrested the petitioner and had not taken steps to record the statement of the victim before the Judicial Magistrate and medical examination has not been conducted and also taking note of the allegations made against the petitioner to attract Sections 7 & 8 of POCSO Act, this Court is of the view that the



petitioner may be granted bail. Accordingly, the petitioner is ordered to be released

on bail subject to the following conditions;

(a) the petitioner shall execute 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 under POCSO Act, Nagapattinam;**

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) **the petitioner shall report before the respondent police, as and when required;**

(d) the petitioner shall not abscond either during investigation or trial;

(e) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(f) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have



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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];

(g) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

**01.09.2023**

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**To**

- 1.The Sessions Judge, Special Court under POCSO Act, Nagapattinam.
- 2.The Inspector of Police,  
All Women Police Station,  
Nagapattinam.
- 3.District Jail,  
Nagapattinam.
- 4.The Public Prosecutor,  
High Court, Madras.

**Dr.G.JAYACHANDRAN, J.**



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