



CrI.OP.No.21142 of 2023

CrI.O.P.No.21142 of 2023

G.CHANDRASEKHARAN.J.,

The petitioner namely Babu, who was arrested and remanded to judicial custody on 29.04.2023 for the offences punishable under Sections 6 r/w 5(m)(l)(n) of POCSO Act and Sections 323, 506(i) of IPC in Crime No.04 of 2023 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner submitted that, petitioner is falsely implicated in this case in Crime No.04 of 2023 for the offences under Sections 6 r/w 5(m)(l)(n) of POCSO Act and Sections 323, 506(i) of IPC. Now, the investigation is completed and final report is filed in Spl.S.C.No.165 of 2023. Petitioner is in judicial custody from 29.04.2023. Thus, he prays for grant of bail.

3. Learned Additional Public Prosecutor opposes this petition, on the ground that, this is a case, where father had committed penetrative sexual assault against his own daughter, who was aged only 8 years. Thus, he prays for dismissal of this bail petition.



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4. In reply to this submission, learned counsel for the petitioner submitted that, though the alleged incident is said to have happened on 21.02.2023, complaint was given only on 29.04.2023. Thus, there is a delay of two months in giving a complaint.

5. Considered the rival submissions and perused the records. The allegation made in the first information report is that, defacto complainant is the mother of the victim girl. Because of the sexual torture given by her husband/petitioner, she left him and was living separately with her children from October 2021 at Melmaruvathur, Sothupakkam. Then, she joined her husband in September 2022. Again, petitioner created problem and therefore, she left him. On 08.01.2023, she came to her husband's house and stayed till 21.02.2023. Again petitioner started harassing her. Defacto complainant's daughter/victim girl informed her that, during her absence, petitioner had committed penetrative sexual assault against her multiple times.



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5.1. The Statement under Section 164 Cr.P.C of the victim girl was recorded. She had clearly stated that, petitioner had committed penetrative sexual assault against her.

6. It is seen that, this is the second bail petition filed by the petitioner. Earlier bail petition filed by the petitioner in Crl.O.P.No.18106 of 2023 was dismissed by considering the seriousness of the offence committed by the petitioner, who is the biological father of the victim girl and committed penetrative sexual assault on her. That bail petition was dismissed on 09.08.2023. Since the dismissal of the bail petition, there is no change of circumstances warranting reconsideration of the bail petition in favour of the petitioner. Thus, this Court is not inclined to grant bail to the petitioner for the reason that, if the petitioner is released on bail, there is a possibility that petitioner may threaten the victim girl and the defacto complainant and obstruct fair and free trial in this case.



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7. Accordingly, this Criminal Original Petition is dismissed.
However, this Court directs the learned trial Judge is directed to dispose
to the case in Spl.S.C.No. 165 of 2023 as expeditiously as possible.

13.09.2023

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Copy To:

Special Judge for Exclusive Trial of Cases under POCSO Act,
Chennai.

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