



CrI.OP.No.21471 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2023

CORAM

THE HON'BLE MR. JUSTICE G.CHANDRASEKHARAN

CrI.O.P.No.21471 of 2023

Dinesh

...Petitioner

Vs.

The State Rep by
The Inspector of Police,
Nettapakkam, Police Station,
Puducherry.
(Crime No.114 of 2023)

...Respondent.

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail pending investigation in Crime
No.114 of 2023 on the file of respondent Police.

For Petitioner : M/s. S.Radhika

For Respondent : Mr.M.V.Ramachandra Moorthy
Additional Public Prosecutor
(Puducherry)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 11.07.2023 for the offences punishable under Section 363 of IPC altered into Section 6 of POCSO Act in Crime No.114 of 2023 on the file of the respondent police, seeks bail.

2.The learned counsel for the petitioner submitted that, petitioner had not kidnapped or committed any offence under POCSO Act against the victim girl. However, he is falsely implicated in this case registered for the offences under Sections 363 of IPC altered into Section 6 of POCSO Act. Petitioner is in judicial custody from 11.07.2023. Thus, this petition is filed for seeking bail.

3.The learned Additional Public Prosecutor (Puducherry) submitted that, defacto complainant gave a complaint alleging that, his daughter was missing from the early morning on 06.07.2023. Thereafter, investigation was conducted. On 11.07.2023, victim girl and the petitioner surrendered before the respondent police. During the investigation, it came to light that, petitioner had committed penetrative sexual assault against the victim girl. The statement of the victim girl



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under Section 164 of Cr.P.C was recorded and the medical examination of the victim girl was over. Investigation in this case is completed and final report is filed for the offences under Sections 366 of IPC, Section 9 of Child Marriage Act and Section 6 of POCSO Act and the case is yet to be taken on file by the learned Special Judge under POCSO Act, Pondicherry.

4. The reading of the statement of the victim girl under Section 164 of Cr.P.C., shows that, victim girl had not stated anything incriminating against the petitioner. All that she stated was that, she is moving friendly with the petitioner. Victim girl's father believing that, victim girl was in love with the petitioner, had beaten the victim girl multiple times. He had also taken the two-wheeler and cell phone of the petitioner, when he found the petitioner near the tuition centre. It is also stated that, only at the instance of the victim girl, petitioner accompanied her to her friend's house. Thereafter, on learning that, criminal complaint was given before the police, petitioner and victim girl surrendered before the Police Station.

6. From the materials produced and the submission of the learned



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counsel appearing for the parties, it is evident that, no statement was given by the victim girl with regard to the alleged penetrative sexual assault against the petitioner. Now, investigation is completed and final report is filed and the same is yet to be taken on file. Petitioner is in Judicial Custody from 11.07.2023. Thus, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on their 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 Fast Track Court, Puducherry** 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 10.00.a.m., until further orders.



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[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.

15.09.2023

sma

To

1. Fast Track Court, Puducherry.

2.The Inspector of Police,
Nettapakkam, Police Station,
Puducherry.

3.Central Prison,
Puducherry.

4.The Public Prosecutor,
High Court of Madras

G.CHANDRASEKHARAN. J.



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