



Crl.OP.No.22101 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.09.2023

CORAM

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

Crl.O.P.No.22101 of 2023

Raji

...Petitioner

Vs.

The State Rep by
The Inspector of Police
Chinnasalem Police Station,
Villupuram District.
(Crime No.323 of 2023)
...Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail in Crime No.323 of 2023 on the
file of the respondent police.

For Petitioner : Mr. G.Mohammed Aseef

For Respondent : Mr.S.Rajakumar
Additional Public Prosecutor.



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 19.06.2023 for the offences punishable under Sections 343, 366 of IPC read with Section 5(1), 6 of POCSO Act and Section 9 of Prohibition of Child Marriage Act in Crime No.323 of 2023 on the file of the respondent police, seeks bail.

2. The learned counsel for the petitioner submitted that, petitioner was in love with the victim girl. FIR in Crime No.323 of 2023 was originally registered under the caption “Girl Missing” on the basis of the complaint given by victim girl's father. Subsequently, it was found that, victim girl had eloped with the petitioner and therefore FIR was altered into Sections 343, 366 of IPC read with Section 5(1), 6 of POCSO Act and Section 9 of Prohibition of Child Marriage Act. Petitioner is in Judicial Custody from 19.06.2023. Thus, he seeks bail to the petitioner.



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3. In response, learned Additional Public Prosecutor submitted that, petitioner is aged about 27 years and the victim girl is aged about 17 years. Petitioner had committed penetrative sexual assault against the victim girl. The statement of the victim girl under Section 164 of Cr.P.C was recorded and the medical examination of the victim girl was also over.

4. Considered the rival submissions and perused the records. The reading of the statement of the victim girl under Section 164 of Cr.P.C., shows that, victim girl was in love with the petitioner for three years. Petitioner had committed penetrative sexual assault against her. They went to petitioner's sister's house. There, they enquired about the age of the victim. Petitioner tied thali on her neck. Again he committed penetrative sexual assault against her. Next day, petitioner's sister and his uncle informed the victim girl's parents. Then police came and took them to police station.



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5. The reading of the statement of the victim girl under Section 164 of Cr.P.C., shows that, victim girl was in love with the petitioner and she had consented for sexual relationship with the petitioner. Victim girl is aged about 17 years. Though the consent of victim minor girl is immaterial, considering the duration of the custody of the petitioner ie., from 19.06.2023 and that material part of the investigation might have been over by this time, this Court is inclined to grant bail to the petitioner.

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 Court of exclusive trial of cases under POCSO Act, Villupuram (FAC)** 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.

[c] the petitioner shall not abscond either during



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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.

26.09.2023

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To

1. Special Court of exclusive trial of cases under POCSO Act,
Villupuram (FAC)
- 2.The Inspector of Police
Chinnasalem Police Station,
Villupuram District.
- 3.Central Jail,
Cuddalore.
- 4.The Public Prosecutor,
High Court of Madras



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G.CHANDRASEKHARAN. J.

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