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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.01.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P. No.28566 of 2022

Jothilingam

...Petitioner/Sole Accused

Vs.

The State Rep. by
Inspector of Police,
Thirukoilur AWPS
Kallakuruchi District.
(Crime No. 7/2022)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439 of the Code of Criminal Procedure, to enlarge the bail to the petitioner in Spl.S.C.No. 69 of 2022 on the file of Special Court for Exclusive Trial of Cases under the POCSO Act, Villupuram.

For Petitioner : Mr. M.Mariappan
For Respondent : Mr. S.Udaya Kumar
Government Advocate (Crl. Side)

ORDER

The petition has been filed seeking bail. The petitioner had been arrayed as an accused in FIR in Crime No. 7 of 2022 for offences under Sections 342, 323, 354A)1)(i) of IPC and under Sections 7, 8, 9(m), 10 of POSCO ACT.



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2. The petitioner had been remanded to judicial custody on 27.02.2022. After investigation, a final report had been filed and had been taken cognizance as Spl.S.C.No. 69 of 2022 by the Special Court for Exclusive Trial of Cases under the POSCO Act, Villupuram.

3. The petitioner had filed the bail application earlier which had suffered an order of dismissal on 01.06.2022. The petitioner continues to be in incarceration. In the meanwhile, trial had commenced.

4. This Court observed that the evidence of the prosecutrix should be first conducted and thereafter, the bail application shall be considered. Trial had commenced. The prosecution examined as PW-1 Village Administrative Officer, as PW-2 the victim child/ prosecutrix, as PW-3 the mother, as PW-4 the father. Since the material evidence had been recorded, it is only appropriate that the petitioner is now given an opportunity to move further to instruct the Advocate and for that purpose, it is required that he is released on bail. The evidence of the prime witnesses have also been recorded by the learned trial Judge and therefore, there is no further question of tampering of witness.



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5. In view of change in circumstances, this Petition is allowed.

6. The petitioner is ordered to be released on bail on his executing a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) with two sureties, each for a like sum to the satisfaction of the learned Special Court for Exclusive Trial of Cases under the POCSO Act, Villupuram and on further conditions that:-

[a] the sureties shall affix his photograph and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of his Aadhar card or Bank pass Book to ensure his identity.

[b] the petitioner shall appear before the trial Court during every hearing of the trial proceedings at 10.30 a.m., until further orders.

[c] the petitioner shall not tamper with evidence or witness either during investigation or trial.

[d] the petitioner shall not abscond either during investigation or trial.



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C.V.KARTHIKEYAN, J.

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[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.

12.01.2023

Index : Yes/No

Internet : Yes/No

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Note: Issue order copy today (12.01.2023)

To

1. The Inspector of Police,
Thirukoilur AWPS
Kallakuruchi District.
2. The Public Prosecutor,
High Court of Madras,
Madras.
3. Special Court for Exclusive Trial of Cases
under the POCSO Act, Villupuram.
4. The Central Prison,
Cuddalore.



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