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Crl.O.P.No. 24730 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

CORAM

THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN

Crl.O.P.No.24730 of 2023

Ganesh Kumar

... Petitioner

Vs.

The State rep. by:-

The Inspector of Police,

W-22, All Women Police Station,

Mylapore, Chennai 600 004.

(Crime No. 4 of 2023)

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to enlarge the petitioner / Accused on bail pending investigation in
Crime No.4 of 2023 on the file of the respondent Police in Spl.S.C.No.118 of
2023.

For Petitioner : Mr.P.Syed Abdul Mashood

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl.Side)

ORDER

The petitioner seeks bail in Spl.S.C.No.118 of 2023 now pending
trial at the stage of letting in defence evidence before the learned Special
Judge for POCSO Act cases, Chennai.



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2.Originally, Crime No.4 of 2023 had been registered under Sections 5(l), 5(m), 5(n) and 6 of POCSO Act.

3.The earlier bail application had been dismissed on 21.09.2023, but now I am informed that the trial has progressed and the questioning under Section 313 Cr.P.C has also been completed and the matter is now listed for defence side witnesses. Without examining the merits the case, since all the prosecution witnesses have also been cross examined, specifically without analysing the evidence, this Court is inclined to grant bail to the petitioner with certain conditions.

4.Accordingly, the petitioner is ordered to be released on bail on condition to execute 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 District Judge for POCSO Act cases, Chennai 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 learned Special District Judge for POCSO Act cases, Chennai,



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everyday, till completion of the trial;

[c] If any application is filed to recall the witnesses, the learned Special Judge may apply his mind that this Court had granted bail only on the ground that the prosecution had examined all the witnesses;

[d] If any application under Section 311 Cr.P.C., is filed, then the prosecution is at liberty to file an application seeking cancellation of bail;

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

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

[g] 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].

[h] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

15.11.2023

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C.V.KARTHIKEYAN, J.

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To

1. The Special District Judge for POCSO cases, Chennai.
2. The Central Prison I, Puzhal, Chennai.
3. The Inspector of Police,
W-22, All Women Police Station,
Mylapore, Chennai 600 004.
4. The Public Prosecutor,
High Court of Madras.

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