



Crl.O.P.No.25757 of 2023

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A.D.JAGADISH CHANDIRA, J.

The petitioner, who was arrested and remanded to judicial custody on 09.04.2022, in Spl.S.C.No.74 of 2022 on the file of the learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Villupuram, in connection with Crime No.119 of 2022 registered for the offences under Sections 366, 344, 376-A, 302 of IPC, Sections 5(1), 6 r/w. 17 of POCSO Act, Sections 9, 10 of Child Marriage Act and Section 75 of Juvenile Justice (Care and Protection of Child) Act 2015, seeks bail.

2. The case of the prosecution as per the defacto complainant/Thanigaivel is that A1 had asked him to give his minor daughter/victim, aged 13 years, in marriage to him, whereas the defacto complainant's family had rejected the proposal, since the victim was a minor. The further allegation is that the accused had induced the victim by getting her phone number. Later, he kidnapped her from the lawful custody of the defacto complainant, performed child marriage and they were living together. While so, on 08.04.2022, the accused, in an inebriated condition, had assaulted the victim with iron pipe, resulting in which, the victim died. Hence, the case.



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3. Mr. C. Prabhakaran, learned counsel appearing for the petitioner would submit that this is the second application for bail and the earlier application for bail in Crl.O.P.No.12539 of 2023 was dismissed on 07.06.2023. This Court, while dismissing the earlier bail petition on 07.06.2023, had directed the learned Trial Judge to complete the trial as expeditiously as possible, preferably, within a period of four months from 07.06.2023. However, trial has not been completed and thereby, the present petition has been filed on account of the long incarceration of the petitioner/accused. He would further submit that the trial has commenced and the petitioner has to engage a counsel and conduct the case.

4. The learned Government Advocate (Crl.side) appearing for the respondent police would submit that it is a case of kidnap, rape and murder. The petitioner, who is aged about 31 years, had induced, kidnapped a minor victim girl, aged 13 years and performed child marriage and later, in an inebriated condition he had assaulted her with iron pipe, resulting in her death. He would further submit that earlier, on 07.06.2023, this Court, taking into consideration the gravity of the offence committed by the petitioner/accused, had dismissed the application and directed the learned Trial Judge to complete



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the trial within a period of four months from 07.06.2023. Totally, there are 35 witnesses in this case and the prosecution is ready with the witnesses, however, the petitioner/accused had not engaged a counsel so far and thereby, the petitioner/accused is responsible for the delay in trial. He would further submit that even now, the prosecution is ready to conduct the trial on a day to day basis and only on account of non cooperation by the petitioner/accused, there is no progress in the trial and thereby, he would seek for dismissal of the petition.

5. This Court considered the matter in the light of the submissions made on both sides and perused the materials available on records carefully.

6. This Court, by taking into consideration the gravity of the offence committed by the petitioner/accused, dismissed the earlier bail petition filed by the petitioner, by an order dated 07.06.2023. It is the case of the petitioner that though this Court had directed the Trial Court to complete the trial within a period of four months, trial has not yet commenced. Whereas the prosecution submits that the respondent is ready for conducting trial on day to day basis and that the petitioner/accused has not engaged a counsel so far and the petitioner/accused is solely responsible for the delay and the prosecution is



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not responsible for the delay. In the said circumstances, this Court is not inclined to grant bail to the petitioner .

7. Accordingly, this Criminal Original Petition is dismissed.

10.11.2023

Index : Yes / No
Speaking / Non-speaking
Neutral Citation : Yes / No

mrp

To

1. The Sessions Judge,
Special Court for Exclusive Trial of Cases under POCSO Act,
Villupuram,



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