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Crl.O.P.No.26119 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.O.P.No.26119 of 2023

Prabakaran

... Petitioner

Vs.

1.The State of Tamilnadu,
rep. by the Inspector of Police,
All Women Police Station,
Chennai
Cr no.13 of 2023

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, pleaded to set aside the order passed by the Court of Sessions Judge, Fast Track Mahila Court, Thiruvarur in Crl.MP.No.353 of 2023 in Special Sessions Case no.32 of 2023 dated 18.10.2023.

For Petitioner : Mr.P.G.Perumalpandian

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition is filed seeking to set aside the order



passed by the Court of Sessions Judge, Fast Track Mahila Court, Thiruvavur in Crl.MP.No.353 of 2023 in Special Sessions Case no.32 of 2023 dated 18.10.2023.

2.The petitioner, who is the accused, against him, a case was registered for the alleged offences punishable under Sections 363, 294(b), 506(i) of IPC 6, 5(j) (ii) and 5(1) of Protection of Children from Sexual Offences Act. He sought for bail. The Court below has granted bail on condition that he should execute two sureties for a sum of Rs.25,000/- each, out of whom, one must be a blood relative of the petitioner.

3.The petitioner herein had filed an application under Section 439 and 440 (2) of Cr.P.C. for modification of the above condition and permitting the petitioner to be released on his own bond.

Section 440 of the Cr.PC reads as under:-

“Section 440 – Amount of bond and reduction thereof.-

(1) The amount of every bond executed under this chapter shall be fixed with due regard to the circumstances of the case and shall not be excessive.

(2) The High Court or Court of Session may direct that



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the bail required by a police officer or Magistrate be reduced.”

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4.The said provision indicates that the bond amount must be proportionate to the offence and not excessive. Further in case, the bond amount fixed by the Magistrate appears to be excessive, the High Court or the Court of Session may modify the bond amount. Whereas, in this case, the bond amount is only Rs.25,000/- and the offence is POCSO falls under POCSO Act, precisely the allegation against the petitioner is that he had kidnapped the victim girl aged about 17 years and committed aggravated penetrative sexual assault against her on several occasions and made the victim girl pregnant.

5.In the light of the above facts, this Court finds no reason to modify the bail condition. Accordingly, this petition is dismissed.

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01.12.2023

Index : Yes/No

Neutral Citation : Yes/No

