



CrI.O.P.No.618 of 2024

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C.V.KARTHIKEYAN, J.

The petitioner who was arrested and remanded to judicial custody on 16.12.2023 for the offences under Sections 343, 307 IPC and Section 77B Juvenile Justice Act, 2015 and Sections 5(n) r/w 6 of POCSO Act, in Crime No.19 of 2021, on the file of the respondent Police, seeks bail.

2.The victim child is the daughter of the petitioner. The petitioner is a divorcee. There is one earlier case against the petitioner in Crime No.8 of 2014 registered under Sections 498(A), 417, 495, 323, 506(i) of IPC and after trial, the petitioner had been convicted by the Additional Mahila Judge (Magistrate Level) Salem for a period of one year (simple imprisonment) and Fine of Rs.1000/-. The defacto complainant is the wife of the petitioner. Both the petitioner and the defacto complainant are divorcees.

3.It is stated that on 22.04.2021, the petitioner had committed the offences as stated. The investigation is at a very nascent stage.

4.When the matter first came up for hearing on 12.01.2024, the learned counsel for the petitioner stated that the petitioner and the defacto complainant had entered into a compromise. This Court wanted to know about how a compromise could be entered into defeating the rights of the



victim child. It is the victim child who is the focus of the offences under the POCSO Act. Therefore, the Principal of the School where the victim child was studying was called upon to be present. However, the petitioner herein had also brought in the defacto complainant and also the victim child.

5.This Court had thereafter sought the assistance of the District Legal Services Authority at Salem and a report had been received from the learned Principal District Judge, Salem about the welfare of the victim child. To that extent, the Court had protected the interest of the victim child.

6.A counter has been filed by the respondent stating about the antecedents of the petitioner. Paragraph No.8 of the counter is extracted hereunder:

“It is further submitted that the petitioner/accused has filed a bail petition before the Principal Special Sessions Judge POCSO Court, Salem, in CrI.M.P.No.1165 / 2023 and the same was dismissed on 02.01.2024. There is one previous case against this petitioner/Accused in the same AWPS-Sooramangalam and the Cr.No was 08/2014 under Sections 498(A), 417, 495, 323, 506(i) of IPC dated 06.03.2014. This case was convicted by the Additional Mahila Court (Magistrate Level) Salem on



*14.12.2015 for a period of one year (Simple imprisonment) and
Fine Rs.1000/-.”*

7.Taking into consideration that the investigation is still pending and further witnesses will have to be examined and that since the petitioner as a father will have every opportunity to tamper the evidence and also had actually influenced the defacto complainant who according to the learned counsel entered into settlement with the accused, I am not inclined to grant bail to the petitioner.

8.Hence, this Criminal Original Petition is dismissed.

26.02.2024

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