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Crl. O.P. No.20185 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 23.08.2024

CORAM :

THE HON'BLE MR JUSTICE P.DHANABAL

CRL.OP.No.20185 of 2024

Amsavelu

... Petitioner

Vs

**The State
Rep by the Station House Officer,
Kallakurichi AWPS,
Cr.No.2 of 2022**

... Respondent

PRAYER :- This criminal original petition has been filed under Section 483 of BNSS to enlarge the petitioner on bail pending trial in Spl.CC.No.133 of 2024 on the file of the Principal District and Session Judge, Kallakurichi subject to any condition.

**For Petitioner : Mr.I.Syed Sibghatulla
For Respondent : Mr.S.Vinoth Kumar, GA (Crl.side)**

ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.02.2023 for the offence under sections 366, 342 of IPC r/w.5(m), 6 of POCSO Act in Crime No.02 of 2022 on the file of the respondent police seeks bail.



Crl. O.P. No.20185 of 2024

2. The case of the prosecution is that on 26.12.2021, the petitioner took the victim girl and attempted to commit penetrative sexual assault.

Hence, the case.

3.The learned counsel appearing for the petitioner would contend that the respondent police registered a case against the petitioner in Cr.No.2 of 2022 for the offences punishable under sections 366, 342 of IPC r/w.5(m), 6 of POCSO Act. The alleged occurrence took place on 26.12.2021 at 12noon, the petitioner took the victim girl on the pretext that the bird is drinking water and attempted to commit penetrative sexual assault. The petitioner is in judicial custody from 16.02.2023. Hence, he prayed bail for the petitioner.

4.The learned Government Advocate (crl.side) appearing for the respondent police would contend that the offence is grave in nature, the petitioner involved in aggravated penetrative sexual offence. The trial has been commenced and some of the witnesses have been examined, hence, he strongly opposed to grant bail to the petitioner.

5.Heard both sides and perused the materials available on record including the First Information Report.



Crl. O.P. No.20185 of 2024

WEB COPY

6. Considering the rival submissions on either side and considering the fact that the investigation is completed and the trial has been commenced and some of the witnesses including victim were also examined and also considering the period of incarceration, I am inclined to grant bail to the petitioner, subject to the following conditions:

[a] 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 Principal District and Sessions Judge, Kallakurichi and on further conditions that:

[b] the petitioner shall report before respondent police daily at 10.00 A.M., on all working days until further orders.

[c] the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;

[d] the petitioner shall not leave India without the previous permission of the Court;

[e] the petitioner shall not commit any offences of similar nature.



Crl. O.P. No.20185 of 2024

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

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[g] On breach of any of the aforesaid conditions, the learned Judicial 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.

23.08.2024

index: Yes/No

Internet: Yes/No

Speaking/Non Speaking order

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To

1.The Principal District and Sessions Judge, Kallakurichi

2.The Superintendent,
Central Prison, Cuddalore

3.The Public Prosecutor,
Madras High Court, Chennai.



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Crl. O.P. No.20185 of 2024

P.DHANABAL, J
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CRL.OP.No.20185 of 2024

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