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CRL O.P. No.21355 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.09.2024

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

CRL OP.No.21355 of 2024

M.Khader Basha

... Petitioner / Accused

Vs

State rep. by
The Inspector of Police,
Vaniyambadi A.W.P.S.,
Vellore District.

(Crime No.10 of 2024)

... Respondent

PRAYER: - The Criminal Original Petition is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, (BNSS) 2023, praying to enlarge the Petitioner on bail in Crime No.10 of 2024, on the file of the respondent.

For Petitioner : Mr.T.Saravanan

For Respondent : Mr.S.Vinothkumar
Government Advocate
(Criminal Side)



CRL O.P. No.21355 of 2024

ORDER

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The petitioner, who arrested and remanded to judicial custody on 23.07.2024 for the offences punishable under Sections 9(m) r/w 10 of the POCSO Act, 2012, in Crime No.10 of 2024, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 14.04.2024, the daughter of the defacto complainant, aged 9 years, while giving water to the petitioner, at that time, the petitioner touched her stomach and try to misbehave with the victim child. Hence, the case.

3.The learned counsel for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner was in judicial custody for more than 40 days and there is no previous case against the petitioner. He would also submit that the petitioner is ready to abide by any stringent condition that may be imposed by this Court. Hence, he prays for grant of bail to the petitioner.



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4. The learned Government Advocate (Crl. Side) for the respondent would submit that the petitioner has misbehaved with the defacto complainant's daughter aged 9 years by touching her stomach. He would further submit that the statement of the victim child under Section 164 of Cr.P.C., has been recorded. He would further submit that there is no previous case against the petitioner. However, he vehemently opposed to grant bail to the petitioner.

5. Heard both side learned counsel and perused the materials available on record.

6. Considering that already the statement of the victim child under Section 164 of Cr.P.C., was recorded and that there is no previous case against the petitioner and considering that the number of days of incarceration undergone by the petitioner, this Court is 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



CRL O.P. No.21355 of 2024

of the Court of the Special Judge for Exclusive Trial of Cases under the POCSO Act, 2012, Vellore, and on further conditions that;

[b] the Petitioner shall report before the Special Judge for Exclusive Trial of Cases under the POCSO Act, 2012, Vellore, on every working day at 10.30 a.m., until further orders.

[c] the Petitioner shall not commit any offences of similar to the offence of which he is accused, or suspected, or of the commission of which he is suspected;

[d] 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 him from disclosing such facts to the Court or to any police officer;

[e] the Petitioner shall not abscond either during investigation or trial;

[f] 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]; and

[g] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 B.N.S.

02.09.2024

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CRL O.P. No.21355 of 2024

To
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1.The Court of the Special Judge for Exclusive Trial of Cases under the POCSO Act, 2012, Vellore.

2.The Inspector of Police,
Vaniyambadi A.W.P.S.,
Vellore District.

3.Central Prison, Vellore.

4.The Public Prosecutor, High Court, Madras.



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CRL O.P. No.21355 of 2024

P.DHANABAL,J.
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CRL.OP.No.21355 of 2024

02.09.2024