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CRL O.P. No.20888 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2024

CORAM

THE HON'BLE MR.JUSTICE P.DHANABAL

CRL OP.No.20888 of 2024

Duraisamy

... Petitioner / Accused

Vs

State rep. by:-

The Inspector of Police,
Kottapatti Police Station.

... Respondent

[Cr. No.208 of 2017]

PRAYER: - The Criminal Original Petition is filed under Section 483 of The Bharatiya Nagarik Suraksha Sanhita, 2023, praying to enlarge the Petitioner on bail in Crime No. 208 of 2017 on the respondent police.

For Petitioner : Mr.N.S.Sivakumar

For Respondent : Mr.S.Vinoth Kumar
Government Advocate
[Criminal side]



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ORDER

The Petitioner seeks bail in Spl.S.C.No.27 of 2023 for the offences punishable under Sections 363, 366 of IPC and Section 5(l) and 6 of POCSO Act, 2012. The petitioner was remanded to judicial custody on 23.05.2024 on execution of NBW issued against him on 07.12.2019.

2.The case of the prosecution is that on 31.10.2017, the petitioner kidnapped the victim child, who is aged about 17 years, to Salem, Harur and Bangalore and stayed there in Coffee estate for 16 days and committed penetrative sexual assault on 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 already granted bail and due to his ill health and family difficulties, he was not able to appear before the Trial Court. Hence, NBW was issued against the petitioner on 07.12.2019 and the same was executed on 23.05.2024. He would further submit that the petitioner is ready to abide by any 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 petitioner has kidnapped the victim girl aged about 17 years and committed penetrative sexual assault on her. He would further submit that the petitioner was already granted bail, but he did not appear before the Trial Court and hence, NBW was issued on 07.12.2019 and the same was executed only on 23.05.2024. He would further submit that the case is at the stage of examination of Investigating Officer. Hence, he seriously opposed to grant bail to the petitioner.

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

6. Considering the representation made by both side learned counsels and considering that the petitioner was already granted bail and thereafter, due to his non appearance, NBW was issued and after a long time, the same was executed and also considering that the case is now posted for examination of Investigating Officer and that already material witnesses were examined and also taking into consideration the number



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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 of the **Sessions Judge, Fast Track Mahila Court, Dharmapuri**, and on further conditions that:

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

[c] the Petitioner shall not commit any offences of similar nature.

[d] the Petitioner shall not abscond either during investigation or trial.

[e] the Petitioner shall not tamper with evidence or witness 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].

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

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To
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- 1.The Sessions Judge, Fast Track Mahila Court, Dharmapuri.
- 2.The Inspector of Police,
Kottapatti Police Station.
- 3.District Prison, Dharmapuri.
- 4.The Public Prosecutor, High Court, Madras.



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P.DHANABAL,J
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