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CRL O.P. No.21380 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.21380 of 2024

Jayavel

... Petitioner / Accused

Vs

State rep. by
The Inspector of Police,
All Women Police Station,
Thirumangalam.

(Crime No.23 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.23 of 2024, on the file of the respondent.

For Petitioner : Mr.E.Kevinraj

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



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ORDER

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The petitioner, who arrested and remanded to judicial custody on 23.06.2024 for the offences punishable under Sections 363 of IPC and 9(m) r/w 10 of POCSO Act, 2012, in Crime No.23 of 2024, on the file of the respondent police, seeks bail.

2.The case of the prosecution is that on 22.06.2024, the defacto complainant and her husband went to work and her elder daughter went to special class and the younger daughter of the defacto complainant alone was at her home. On the same day, when the younger daughter, aged 9 years went to opposite house to play with her friends, at that time, the petitioner, who is residing in the upstairs of her friend's house called the victim child and enticed stating that he would give kitten, took her to his house and committed 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 in judicial custody for more



than 70 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.

4. The learned Government Advocate (Crl. Side) for the respondent would submit that the petitioner has committed sexual assault on the 9 year victim child of the defacto complainant. He would further submit that the statement of the victim child under Section 164 of Cr.P.C., was recorded and 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 the number of days of incarceration undergone by the petitioner and no previous case is pending against 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 **Principal District Mahila Judge, Thiruvallur**, and on further conditions that;

[b] the Petitioner shall report before Principal District Mahila Judge, Thiruvallur, 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.



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To

- 1.The Principal District Mahila Judge, Thiruvallur.
- 2.The Inspector of Police,
All Women Police Station,
Thirumangalam.
- 3.Central Prison – II, Puzhal.
- 4.The Public Prosecutor, High Court, Madras.



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P.DHANABAL,J.
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