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CrI.O.P.No.21819 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.09.2024

CORAM

THE HON'BLE MR. JUSTICE P.DHANABAL

CrI.O.P.No.21819 of 2024

Kanhaiya Kumar

...Petitioner/Sole Accused

Vs.

The State by
The Inspector of Police,
Melapadi Police Station,
Vellore District.

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of the BNS, 2023 praying to enlarge the petitioner on bail in Crime No.151 of 2024, on the file of respondent police.

For Petitioner : Mr.J.Titus Enock

For Respondent : Mr.S.Vinoth Kumar
Government Advocate (CrI. Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 18.06.2024 for the offences under Sections 363, 366, 376(2)(N) of the IPC and Sections 5(I) and 4 of the Protection of Children from Sexual Offence Act, 2012, in Crime No.151 of 2024 on the file of the respondent police, seeks bail.

2. The case of the prosecution is that the petitioner/sole accused kidnapped the defacto complainant's adopted daughter/victim and had a sexual intercourse with her. Hence, the case.

3. Learned counsel for the petitioner submitted that the petitioner is an innocent person, he has not committed any offence as alleged by the prosecution and he has been falsely implicated in this case. He also submitted that the petitioner has been in custody since 18.06.2024. He further submitted that the petitioner is a law-abiding citizen; and that the petitioner is ready to furnish substantial sureties for his due release on bail. Hence, he prays for the grant of bail to the petitioner.

4. Learned Government Advocate (Crl.Side) submitted that the



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petitioner kidnapped the victim girl and had a sexual intercourse with her.

He also submitted that there are no previous cases pending against the petitioner; that the investigation in this case has almost been completed; and that the statement under Section 164 of Cr.P.C., has also been recorded from the minor victim girl. Hence, he strongly opposed granting bail to the petitioner.

5. Heard both sides and perused the materials available on record.

6. Considering the representation made by both sides, that there is a love affair between the petitioner and the victim girl, the statement of the victim under Section 164 of Cr.P.C., was also recorded, that the statement given by the victim, that the investigation was completed, that there are no previous cases pending against the petitioner and also taking into consideration the period of incarceration undergone by the petitioner, this Court is inclined to grant bail to the petitioner with certain conditions:



7. Accordingly, the petitioner is ordered to be released on bail on his executing 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 ***Special Court for Exclusive Trial of cases under POCSO Act, Vellore,*** and on further conditions that:

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

[b] the petitioner shall attend in accordance with the conditions of the bond;

[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 or tamper with the evidence;

[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



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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.

05.09.2024

dk

To

- 1.The Special Court for Exclusive Trial of cases
under POCSO Act,
Vellore.
- 2.The Superintendent of Prison,
Central Prison Vellore.
- 3.The Inspector of Police,
Melapadi Police Station,
Vellore District.
- 4.The Public Prosecutor,
High Court of Madras.



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P.DHANABAL, J.

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