



Crl.O.P.No.28547 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM

THE HON'BLE MR. JUSTICE **C.V.KARTHIKEYAN**

Crl.O.P.No.28547 of 2023

Thesiya Priyan @ Balamurugan

...Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
All Women Police Station,
Nagapattinam District.

(Crime No.27 of 2023)

...Respondent

PRAYER:

Criminal Original Petition is filed under Section 439 of Cr.P.C.
praying to enlarge the petitioner on bail concerned in Crime No.27 of
2023 on the file of the respondent police on such terms and conditions.

For Petitioner : Mr.P.Muthamizhselvakumar

For Respondent : Mr.L.Baskaran
Government Advocate (Crl. Side)



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ORDER

The petitioner seeks bail in Crime No.27 of 2023, registered by the respondent police for the offence under Sections 376(1) of IPC. The petitioner had been remanded to custody on 26.10.2023.

2.The statement of the victim under Section 164(5) of Cr.P.C., had been recorded and the Court had perused the same.

3.It is stated that charge sheet has been filed and the same has been taken cognizance as PRC.No.1 of 2024 but it has not yet been committed to the Sessions Court.

4.It is also stated that the DNA test had been taken with the child and with the petitioner and the report has not yet come but anyway that would be a part of the records. Now, it is the burdon of the prosecution to prove the case beyond reasonable doubt to enable that, the victim should tender proper evidence.



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5.Taking into consideration the period of incarceration and the fact that investigation has been completed, I am inclined to grant bail to the petitioner subject to the following conditions:

6.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 Additional Mahila cum Judicial Magistrate, Nagapattinam, and on further conditions that: -

[a] the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[b] the petitioner shall report before the respondent police everyday at 10.30 a.m., for a period of two weeks and thereafter, appear before the Additional Mahila cum Judicial Magistrate, Nagapattinam, everyday at 10.30 a.m., till committal of the case and thereafter, appear before the concerned Sessions Court everyday at 10.30 a.m., till the charges are framed and thereafter, during the Court hearing dates.



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

[d] the petitioner shall not tamper with evidence or witness either during investigation or trial.

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

[f] If the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

10.01.2024

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To

1. The Additional Mahila cum Judicial Magistrate, Nagapattinam.
2. The District Prison, Nagapattinam.
3. The Inspector of Police,
All Women Police Station,
Nagapattinam District.
4. The Public Prosecutor,
High Court of Madras.



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C.V.KARTHIKEYAN. J.
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