



CrI.O.P.No.28622 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

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

CrI.O.P.No.28622 of 2023

Rathan

...Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Thavalakuppam Police Station,
Puducherry District.

(Crime No.58 of 2016)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 439 of Cr.P.C. praying to enlarge the petitioner on bail concerned in Spl.S.C.No.16 of 2023 on the file of the Fast Track Court Exclusively to deal with Offences under the POCSO Act, Puducherry District, on such terms and conditions.

For Petitioner : Mr.K.Prakash

For Respondent : Mr.K.S.Mohandass
Public Prosecutor (Puducherry)



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ORDER

The petitioner/accused in Spl.S.C.No.16 of 2023, now pending trial before the Fast Track Court Exclusively to deal with Offences under the POCSO Act, Puducherry, seeks bail. Originally, Crime No.58 of 2016 had been registered for the offences under Sections 363 and 342 of IPC and Section 9 of Prohibition of Child Marriage Act and Section 6 of POCSO Act. The petitioner had been remanded to custody on execution of Non-bailable warrant on 29.08.2023.

2.Earlier bail had been granted but since the petitioner absconded, the trial could not commence and could not progress. In the earlier occasion, when bail was granted, the father of the petitioner had stood as surety but still the petitioner had absconded necessitating issuance of Non-bailable warrant.

3.A memo has been filed today that the petitioner's mother is ready and willing to stand as surety.



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4.It is also seen from the records that P.W.1 had been examined and also cross-examined. On the side of the respondent, objections have been raised stating that if the petitioner again absconds it will be very difficult to secure him and stating that the Court could fix a time schedule for completion of trial. But to balance that, an opportunity has to be granted to the petitioner to conduct the case in an appropriate manner.

5.Taking all these factors into consideration since P.W.1 had been examined and cross-examined and bail had been earlier granted to the petitioner, 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 three sureties (one surety must be the father, one surety must be the mother and another one surety must be the local surety), each for a like sum to the satisfaction of the Fast Track Court Exclusively to deal with Offences under the POCSO Act, Puducherry



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District 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 appear before the Fast Track Court Exclusively to deal with Offences under the POCSO Act, Puducherry District, everyday at 10.30 a.m., till completion of trial, apart from the Court hearing dates.

[c] both the parents, apart from the bond, must also give separate affidavits that they will ensure that the petitioner appears before the Court and independent of all these, the petitioner must also execute a bond under Section 88 of Cr.P.C., that he would appear before the trial Court without fail during the Court hearing dates. On breach of that particular bond, this order would stand automatically cancelled.

[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



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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.

01.02.2024

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C.V.KARTHIKEYAN. J.



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To

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1. The Fast Track Court Exclusively to deal with Offences under the POCSO Act, Puducherry District
2. The Central Prison, Kalapet, Puducherry District.
3. The Inspector of Police,
Thavalakuppam Police Station,
Puducherry District.
4. The Public Prosecutor,
High Court of Madras.

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