



Crl.O.P.No.6322 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

RESERVED ON : 06.03.2025

PRONOUNCED ON : 10.03.2025

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.6322 of 2025

S.Maheshkumar ... Petitioner/Accused

Vs.

The State represented by,
The Inspector of Police,
All Women Police Station,
Cuddalore,
Cuddalore District.
(Crime No.31 of 2024). ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 483 of BNSS, pleaded to enlarge the petitioner on bail, in connection with the Crime No.31 of 2024, complaint dated 15.08.2024 on the file of Inspector of Police, All Women Police Station, Cuddalore, Cuddalore District, pending trial before the Sessions Judge, Special Court for POCSO, Cuddalore in Spl.S.C.No.123 of 2024.

For Petitioner : Mr.G.M.Shankar

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)



WEB COPY



CrI.O.P.No.6322 of 2025



Crl.O.P.No.6322 of 2025

ORDER

WEB COPY This Criminal Original Petition has been filed by the petitioner/accused, who was arrested and remanded to judicial custody on 16.08.2024, seeking bail in Crime No.31 of 2024 registered for the offence under Sections 5(m), 5(l) and 6 of POCSO Act, 2012.

2. This is the third bail petition. Though the earlier bail petitions of the petitioner was dismissed on 13.11.2024 and 27.01.2025 by my learned predecessor, Hon'ble Justice A.D.Jagadish Chandira, this petition is listed before this Court pursuant to the orders passed by the Hon'ble Division Bench of this Court in Crl.O.P.No.31787 of 2024 on 04.03.2025.

3. The case of the prosecution is that the victim girl, studying in 5th Standard was residing in her grandmother's house; that the victim's parents are no more; that the petitioner who was working as an Auto driver had come to the house of the victim and committed penetrative sexual assault on five occasions; and the complaint was registered at the instance of one Nageswari, who is the Field Worker in Child Helpline of District Child Protection Unit, Cuddalore.



WEB COPY

4. (i) The learned counsel appearing for the petitioner would submit that the allegations are false; that neither the victim nor her grandmother had lodged any complaint; that the FIR was lodged on suspicion; that the Doctor had opined that the victim was not subjected to penetrative sexual assault and that the respondent however had recorded a statement, as if the Doctor had stated that the victim was subjected to penetrative sexual assault and she was pregnant, which would show that the prosecution is malicious.

(ii) The learned counsel therefore submitted that considering the period of incarceration and the fact that the final report has been filed, the petitioner may be released on bail.

5. (i) The learned Government Advocate (Crl.Side) appearing for the respondent police reiterated the case of the prosecution and fairly submitted that in the medical examination report, the Doctor had stated that the victim may not have had penetrative vaginal intercourse and that



she is not pregnant. However, in her Section 161 Cr.P.C. statement, the Doctor had stated that the victim was subjected to sexual intercourse and was also pregnant.

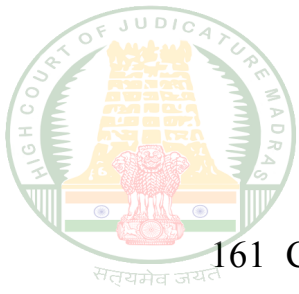
(ii) The learned Government Advocate (Crl.Side) also produced the copy of Section 164 Cr.P.C. statement of the victim.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) for the respondent Police and perused the Section 164 Cr.P.C. statement of the victim, the medical examination report of the Doctor and other relevant records.

7. It is seen from the medical examination report that the Doctor had stated as follows:

- “1. No. She may not have had penetrative vaginal intercourse
2. No. She is not pregnant”

8. In fact the Doctor had also observed that when the victim was examined, she found no injuries or bruises and hymen was intact. As rightly contended by the learned counsel for the petitioner, the Section

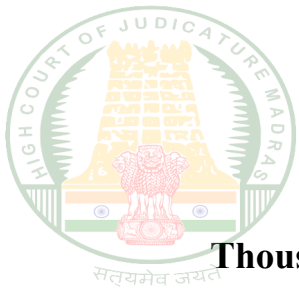


161 Cr.P.C. statement of the doctor is contrary to the report. It is needless to say that the report of the Doctor extracted above would prevail. In any case, it is for the prosecution to establish the allegations against the petitioner before the trial Court.

9. It is seen that the 1st bail petition was dismissed on 13.11.2024 on merits considering the gravity of the offence. The 2nd bail petition was dismissed as withdrawn on 27.01.2025. When the bail petition was first considered by this Court, the aforesaid facts were not placed. Further the petitioner is in custody from 16.08.2024.

10. Hence, considering the aforesaid facts, the fact that the final report has been filed and the trial is pending, the further period of incarceration suffered after the dismissal of the aforesaid earlier bail petitions and since further custody is not required, this Court is inclined to grant bail to the petitioner with certain conditions.

11. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.15,000/- (Rupees Fifteen**



CrI.O.P.No.6322 of 2025

Thousand only) with two sureties, each for a like sum to the satisfaction of the **learned Sessions Judge, Special Court for POCSO**

Act, Cuddalore, 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., until further orders.

[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 269 B.N.S.

10.03.2025

ars



WEB COPY



CrI.O.P.No.6322 of 2025



WEB COPY



Crl.O.P.No.6322 of 2025

SUNDER MOHAN., J.

ars

To

1. The Sessions Judge,
Special Court for POCSO Act, Cuddalore.
2. The Inspector of Police,
All Women Police Station,
Cuddalore, Cuddalore District.
3. The Superintendent,
Central Prison, Cuddalore.
4. The Public Prosecutor,
High Court of Madras.

Pre-delivery order in
Crl.O.P.No.6322 of 2025

10.03.2025