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Crl.O.P.No.7088 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2025

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.7088 of 2025

Ramesh

...Petitioner/Accused

Vs.

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

(Crime No.38 of 2024)

... Respondent

PRAYER: This criminal original petition has been filed under Section 483 of BNSS to enlarge the petitioner on bail in Crime No.38 of 2024 on the file of the respondent police.

For Petitioner : Mr.M.Venkatesh

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



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ORDER

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This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 03.01.2025, seeking bail in Crime No.38 of 2024 registered for the offence under Section 5(1) r/w 6(1) of POCSO Act.

2.It is the case of the prosecution that the petitioner aged about 42 years was a married man; that he had lured the victim girl aged about 17 years and 6 months at the time of occurrence and had committed penetrative sexual assault on more than two occasions and that thus committed the aforesaid offences.

3.The learned counsel for the petitioner would submit that though the earlier bail application was dismissed on 14.02.2025, the final report has been filed on 27.02.2025 and thus considering the change in circumstances, the period of incarceration, the petitioner may be released on bail. He further submitted that though there is the age difference, the allegations would only reveal a consensual affair and in any case, further custody of the petitioner is not required and sought for bail.



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4.Per contra, the learned Government Advocate (Crl. Side) reiterated the prosecution case and submitted that this is the second bail application filed by the petitioner and the earlier bail application was dismissed on 14.02.2025 considering the gravity of offence. The learned Government Advocate also produced a copy of the statement of the victim recorded under Section 183 of BNSS.

5.This Court had perused the statement of the victim recorded under Section 183 of BNSS. The victim was aged 17 years and 6 months at the time of occurrence. The victim had not complained about the occurrence to any one. The victim and the petitioner were secured on the complaint given by the parents of the victim. The statement of the victim suggests that the victim had gone with the petitioner voluntarily. However consent is immaterial since the victim was aged less than 18 years. The question now is that whether the petitioner is guilty of the offence. The question now is whether further custody of the petitioner is required for the purpose of investigation.



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6.Considering the aforesaid facts, the fact that the final report has been filed, this Court is of the view that further custody of the petitioner is not required for the purpose of investigation. Hence, 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.15,000/- (Rupees Fifteen Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Sessions Judge, Special Court for Exclusive Trial of Cases under POCSO Act, Salem**, 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 Trial Court on all hearing dates without fail.

[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;



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[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.

17.03.2025

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Copy to:

1.The Inspector of Police,
All Women Police Station,
Salem District.

2.The learned Sessions Judge, Special Court for Exclusive Trial of Cases
under POCSO Act, Salem.

3.Central Prison, Salem.

4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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