



CrI.O.P.No.15206 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **03.06.2025**

CORAM

THE HONOURABLE MR JUSTICE M.NIRMAL KUMAR

CrI.O.P.No.15206 of 2025

J.Vijaya Kumar

... Petitioner/Sole Accused

Vs

The State Rep By
The Inspector of Police
Vandalur All Woman Police Station,
Chennai.
(Crime No.11 of 2025)

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, seeking to enlarge the petitioner on bail in the event of his arrest in Crime No.11 of 2025 pending investigation on the file of the respondent police.

For Petitioner : Mr.R.C.Paul Kanagaraj

For Respondent : Mr.R.Vinothraja
Government Advocate (Criminal Side)

ORDER

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 5(n), 7 and 8 of the

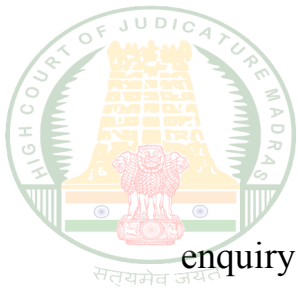


Crl.O.P.No.15206 of 2025

Protection of Children from Sexual Offences Act, 2012 (POCSO Act) in Crime No.11 of 2025, on the file of the respondent police, seeks anticipatory bail.

2.The case of the prosecution is that the daughter of the petitioner lodged a complaint against the petitioner on 06.05.2025 for the alleged offence which said to have taken place on 21.12.2000 when she was studying 8th standard. The complaint is that during that period she had attended online class and sitting at home along with her infant brother. Since her mother was not well and she was taking bed rest at that time, the petitioner said to have come back from home, touched the thighs of the victim minor girl, followed by pressing of her breast, which was informed to her mother who had questioned the petitioner and the petitioner was warned and thereafter since the petitioner sought for apology, it was left at this stage and after completing her twelfth standard and also having earning confidence the complaint has been lodged.

3.The contention of the petitioner is that the complaint in this case came to be registered on 06.05.2025, prior to it the petitioner was called for



CrI.O.P.No.15206 of 2025

enquiry by the All Women Police Station, Guduvancherry, on 13.04.2025 on which day, the petitioner was asked to continue to pay a sum of Rs.30,000/- towards monthly maintenance for his wife and children. Thereafter, the harassment to the petitioner continued. The petitioner is a physically disabled person, certified to have 65% permanent disability as he suffered polio attack born with polio. The petitioner, being an Engineer, provides all the benefits and comforts to his wife and children. The petitioner hails from Kerala, he had a love affair with his wife and married her and settled in Chennai. Since no one was there for the petitioner and further the petitioner's disability was taken advantage of by his wife and she was continuously demanding huge sums of money for her own way of life which was the dispute between the petitioner and his wife and the petitioner's wife had crossed all her limits and now used her daughter and foisted a false case against the petitioner. Prior to the above case, the petitioner, for the assault made on him, had lodged a complaint on 29.04.2025 to the Inspector of Police, Guduvancherry, Law and Order, complaining about the torture, humiliation and assault by his wife. This case is nothing but a counter blast. In support of his contention, the petitioner had produced the family photo showing that even after the alleged occurrence after December 2020 the petitioner has been living with



his wife and children including the victim under the same roof happily. They have been going out to various places, visiting places of interest. He had also produced the disability certificate, copy of the bank statement, insurance, housing loan details, the purchases made by his wife through flip cart, zepto, zomoto and swigge. Further he had produced the bank account to confirm that he had making payments to the expenses of his family members.

4.The learned Government Advocate (Criminal Side) appearing for the respondent police fairly submitted that in this case, Section 5(n) of POCSO Act would not get attracted that since in the complaint as well as in 164 Cr.P.C statement, there is no allegation of any penetrative sexual assault, hence Section 5(n) would not get attracted and the respondent police would take appropriate action to delete Section 5(n) of the Act. Further, from the 164 Cr.P.C statement, it is seen that it is only sexual assault and father making touch on her daughter is now been projected as sexual assault.

5.The sexual intent is the relative factor which has to be looked into the attending circumstances. From the attending circumstances, finding the relationship between the father and his children, this Court is inclined to



CrI.O.P.No.15206 of 2025

grant anticipatory bail to the petitioner with certain conditions.

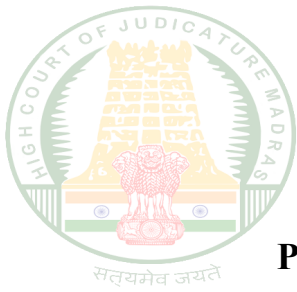
WEB COPY

6. Accordingly, the petitioner is ordered to be released on bail in the event of arrest or on his appearance, within a period of fifteen days from the date on which the order copy made ready, before the **Special Court for POCSO Cases, Kancheepuram**, on condition that the petitioner shall 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 respondent police or the police officer who intends to arrest or to the satisfaction of the learned Magistrate concerned, and on proof of payment of deposits, failing which, the petition for anticipatory bail shall stand dismissed and on further condition that:

[a] if the petitioner fails to surrender before the said Magistrate within a period of fifteen days, this Order shall stand automatically cancelled;

[b] The sureties shall affix their photographs and left thumb impression in the Application for Suretyship [Judicial Form No.46 annexed to 'The Criminal Rules of Practice, 2019']. The learned Magistrate shall obtain a copy of any one of identify proofs to ensure their identity;

[c] **the petitioner shall report before the respondent**



CrI.O.P.No.15206 of 2025

Police daily at 10.30 a.m until further orders;

WEB COPY

[d] the petitioner shall not directly or indirectly cause any threat to the defacto complainant and witnesses and shall not tamper with evidence or witness either during investigation or trial;

[e] the petitioner shall make himself available for interrogation by a Police office as and when required;

[f] the petitioner to give an undertaking that if required for being identified by witnesses during investigation or for Police custody beyond the first fifteen days, he shall comply to the directions as may be given by the Court in this regard;

[g] the petitioner shall not abscond either during investigation or trial;

[h] 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];

[i] If the accused thereafter absconds, a fresh FIR can be registered under Section 269 of BNS.

gbi

03.06.2025



WEB COPY



CrI.O.P.No.15206 of 2025

To:

- 1.The Inspector of Police,
Vandalur All Woman Police Station,
Chennai.
- 2.The Special Court for POCSO Cases,
Kancheepuram.
- 3.The Public Prosecutor,
High Court Madras.



WEB COPY



Crl.O.P.No.15206 of 2025

M.NIRMAL KUMAR, J.

gbi

Crl.O.P.No.15206 of 2025

03.06.2025