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Crl.O.P.No.31787 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.No.31787 of 2024

Y.Babu

...Petitioner/Accused

Vs.

State rep by
The Inspector of Police,
Sulur Police Station,
Coimbatore District.

(Crime No.39 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.39 of 2024 pending investigation on the file of the respondent police.

For Petitioner : Mr.T.Balachandran

For Intervenor : Mr.M.Mohamed Riyaz

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

**ORDER**

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Though the earlier bail petition of the petitioner was dismissed on 10.06.2024 by my learned predecessor, Hon'ble Justice C.V.Karthikeyan, 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.

2.This Criminal Original Petition has been filed by the petitioner, who was arrested and remanded to judicial custody on 15.01.2024, seeking bail in Crime No.39 of 2024 registered for the offence under Sections 392, 397, 354(B), 454, 450, 375(B), 376(c) of IPC r/w Section 66E of IT Act, 2005.

3.It is the case of the prosecution that on the date of occurrence, namely 11.01.2024, the petitioner had trespassed into the victim's house, tied her hands and committed theft of 18 sovereigns of gold jewels, cash of Rs.6,000/-, ATM card and her cell phone; that a case was registered for the



offence under Section 392 of IPC on 11.01.2024 at about 22.30 hours; that later during investigation, it was revealed that the petitioner had also committed rape on the victim and hence, on 15.02.2024, the offence was altered to Sections 392, 397, 354(B), 454, 450, 375(B), 376(c) of IPC. Hence, the case.

4.The learned counsel for the petitioner would submit that the allegations against the petitioner are false; that the allegation of rape is an after thought; that the petitioner is in custody from 15.01.2024 and the trial is yet to commence since the defacto complainant had filed a petition under Section 173(8) of Cr.P.C for further investigation by the respondent police and the respondents are yet to file a further report under Section 173(8) of Cr.P.C and that considering the period of incarceration and since there is a delay even in the commencement of the trial, he may be released on bail.

5.The learned counsel for the defacto complainant would vehemently oppose the grant of bail stating that the petitioner has committed serious offences; that this is the second bail application and that the earlier bail application was dismissed by this Court on 10.06.2024 in Crl.O.P.No.10058



of 2024 stated that the petitioner is not entitled to bail considering the gravity of offence.

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6.Per contra, the learned Government Advocate (Crl. Side) reiterated the prosecution case and submitted that pursuant to the directions of this Court, the Trial Court conducted further investigation; that the mobile phone of the petitioner was seized and the respondents have now found that an another accused, who had video graphed the occurrence, was also involved in the offence and he has also been arrested on 21.02.2024 and a pen drive was recovered from him which contains the videographs which are said to have taken by the accused at the time of occurrence.

7.It is no doubt true that the allegations against the petitioner are serious in nature. The petitioner is in custody from 15.01.2024. The earlier bail application was dismissed by this Court on 10.06.2024 considering the fact that the case was posted for framing of charges on 15.06.2024. This Court had further observed that the process of framing of charges and the examination of the victim may be concluded and hence, dismissed the bail application. It is seen that thereafter, the defacto complainant had sought for



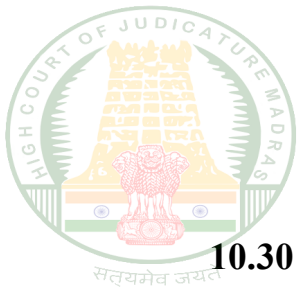
further investigation and the further investigation is pending and the respondents are yet to file the further report. The petitioner cannot be incarcerated for an indefinite period and the trial has not even commenced.

This Court also has to take into consideration the petitioner's right under Article 21 of the Constitution of India.

8.Considering the aforesaid facts, period of incarceration, 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:

9.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 **Judicial Magistrate, Sulur, Coimbatore 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 report before the Trial Court everyday at
10.30 a.m., until further orders;

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

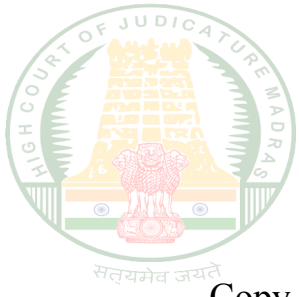
[d] the petitioner shall not tamper with evidence or witness either
during investigation or trial;

[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 269 B.N.S.

25.03.2025
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Copy to:

- 1.The Inspector of Police,
Sulur Police Station,
Coimbatore District.
- 2.The Judicial Magistrate, Sulur, Coimbatore District.
- 3.The Superintendent of Prison,
Central Prison, Coimbatore.
- 4.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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