



CrI.O.P.No.2626 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2023

CORAM

THE HON'BLE MR. JUSTICE **A.D.JAGADISH CHANDIRA**

CrI.O.P.No.2626 of 2023

Mugesh

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Ramanatham Police Station,
Cuddalore District.

(Crime No.460 of 2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleaded to enlarge the petitioner on bail, in connection with the Crime No.460
of 2022, pending investigation on the file of the respondent Police.

For Petitioner : Mr.Ilayaraja Kandasamy

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor



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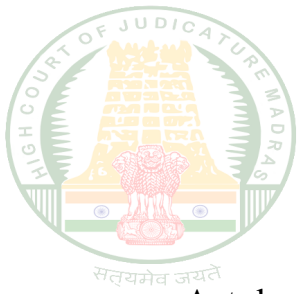
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ORDER

The petitioner, who was arrested and remanded to judicial custody on 16.12.2022, for the offences punishable under Sections 5(l), 5(j)(ii) and 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.460 of 2022, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the *de-facto* complainant, XXXX, is that the accused had befriended her and taken her to the lodge and on false promise of marrying her, had committed penetrative sexual assault on her, due to which, she become pregnant and delivered a child. Hence the case.

3. Learned counsel appearing for the petitioner submitted that the petitioner, who is an innocent person aged about 23 years, and the minor victim girl are known to each other for several years and there was a love affair between them. He further submitted that the relationship between them was consensual in nature and the petitioner, without understanding the consequences and rigours of the Protection of Children from Sexual Offences



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Act, had a relationship with the minor victim girl. He also submitted that the petitioner understands that statement under Section 164 Cr.P.C., has been recorded from the victim girl, wherein, she has also stated that the relationship between them was consensual. He further submitted that the petitioner does not deny the paternity of the child born to the victim girl and is also ready to file an Affidavit of Undertaking stating that after coming out of bail, he would marry the victim girl, when she attains majority. He also submitted that the petitioner is in custody from 16.12.2022, hence, he prays for grant of bail to the petitioner.

4. Learned Additional Public Prosecutor appearing for the respondent police submitted that the petitioner has taken the minor victim girl to the lodge and had repeatedly committed penetrative sexual assault on her, due to which, the victim girl has become pregnant and she has also delivered a child, two months back. He further submitted that the victim girl was secured and the major part of the investigation is over and the statement under Section 164 Cr.P.C., was also recorded from the minor victim girl and he vehemently opposed to grant bail to the petitioner.



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5. Heard the learned Counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record including the First Information Report and the statement recorded from the victim girl under Section 164 Cr.P.C.

6. Taking into consideration the facts and circumstances of the case, the submissions made by the learned counsel for the petitioner and taking note of the statement recorded from the victim girl under Section 164 Cr.P.C. and also considering the period of incarceration undergone by the petitioner, 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.10,000/- (Rupees Ten Thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Special Court (POCSO Cases), 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;



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[b] the petitioner shall report before the respondent Police everyday at 5.30 p.m., until further orders;

[c] the petitioner after coming out of bail, shall file an Affidavit of Undertaking within a period of one week, stating that he would marry the victim girl after she attains majority;

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

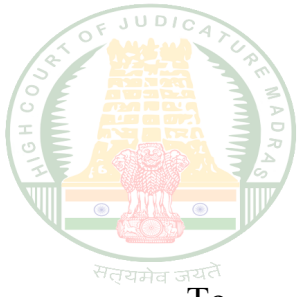
[e] the petitioner shall not tamper with evidence or witness either during investigation or trial;

[f] 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]*;

[g] If the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

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1. The Special Court (POCSO Cases), Cuddalore.
2. The Inspector of Police,
Ramanatham Police Station,
Cuddalore District.
3. The Central Prison,
Cuddalore.
4. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA.,J.

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