

(2024) 04 MAD CK 0238**Madras High Court****Case No:** Criminal Original Petition No. No.10782 Of 2024

Abdul Basith

APPELLANT

Vs

State

RESPONDENT

Date of Decision: April 30, 2024**Acts Referred:**

- Protection Of Children From Sexual Offences Act, 2012 - Section 5(l), 5(m), 6
- Code Of Criminal Procedure, 1973 - Section 164
- Indian Penal Code, 1860 - Section 229A

Hon'ble Judges: T.V.Thamilselvi, J**Bench:** Single Bench**Advocate:** J.Franklin, V.Meganathan**Judgement**

T.V.Thamilselvi, J

1. The petitioner, who was arrested and remanded to judicial custody on 27.02.2024 for the alleged offences punishable under Sections 5(l), 5(m) r/w 6 of Protection of Children from Sexual Offences Act, 2012, in Crime No.2 of 2024 on the file of the respondent Police, seeks bail.

2. Learned counsel appearing for the petitioner submitted that the petitioner is an innocent person and he has been falsely implicated in this case. He further submitted that both the petitioner and the de facto complainant are tenants of the same landlord and there exists a dispute between them, due to which, the landlord, asked the de facto complainant's family to vacate the property, therefore, the de facto complainant had developed a grudge over the petitioner. Thereby, she had lodged a false complaint against the petitioner. He further submitted that the petitioner is in custody from 27.02.2024 and he is ready to abide by any stringent conditions that may be imposed by this Court, hence, he prayed for grant of bail to the petitioner.

3. The respondent has filed a counter before this Court today.

4. Learned Government Advocate (Crl.Side) appearing for the respondent police raised objection stating that it is the case, where, the petitioner/accused, aged about 42 years, had sexually assaulted the minor victim girl aged about 4 years. He further submitted that the investigation in this case has almost been completed and the statement under Section 164 Cr.P.C., has also been recorded from the minor victim girl, however, if the petitioner is released on bail, there is a possibility of him threatening the witnesses.

5. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) and perused the materials available on record including the statement recorded from the victim girl under Section 164 Cr.P.C.

6. Taking into consideration the facts and circumstances of this case and the submissions made by the learned counsel for the petitioner and taking note of the fact that the investigation in this case is almost completed and 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 (out of which, one shall be the blood related surety), each for a like sum to the satisfaction of the learned Mahila Judge, Tiruppur, 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 on every Wednesday at 10.30a.m. for a period three months and thereafter, as and when required for interrogation;

[c] the petitioner shall vacate the premises and stay away from the victim girl and he should file an Affidavit stating that he will not disturb the de facto complainant and her family;

[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.