

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 02.11.2020

CORAM :

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

CRL.O.P.No.16804 of 2020

E.Alex

... Petitioner

Vs.

State rep. By ... Respondent  
The Inspector of Police,  
W-16, All Women Police Station,  
Chennai.  
(Crime No.1117 of 2020)

**PRAYER:** Criminal Original Petition filed under Section 439 of Criminal Procedure Code to enlarge the petitioner on bail in connection with Crime No.1117 of 2020 on the file of the respondent.

For Petitioner : Mr.M.P.Saravanan

For Respondent : Mr.T.Shunmugarajeswaran  
Government Advocate (Crl. Side)

**ORDER**

**(The cases have been heard through video conference)**

The petitioner, who was arrested and remanded to judicial custody on 20.09.2020 for the offences punishable under Sections Girl missing @ 363 of IPC and 6 of POCSO Act 2012, in Crime No.1117 of 2020 on the file of the respondent police, seeks bail.

2.The case of the prosecution as per the defacto complainant viz. Ayup is that his minor daughter, aged about 15 years was found missing from the house on 14.09.2020. Based on the complaint, a case was registered under Section Girl missing and during the course of investigation, it was found that the petitioner had kidnapped his minor daughter and had repeatedly committed penetrative sexual assault on her.

3.The learned counsel appearing for the petitioner would submit that the petitioner is innocent and he has been falsely implicated in this case. He would further submit that the petitioner and the victim girl are known to each other and that when the girl came to the knowledge of the father of the victim girl,

they had arranged for a marriage against her wishes, due to which, the victim eloped from her house and came to the house of the petitioner and stayed in the house of the petitioner. When the petitioner came to know about the registration of the case, he along with the victim girl surrendered before the respondent police and thereafter, the petitioner was arrested and remanded to judicial custody. He would further submit that the petitioner is an uneducated person of 21 years, and that without understanding the rigors and consequences of POCSO Act, he had committed the offence. He would further state that the petitioner understands from the statement recorded under Section 164 Cr.P.C. that the victim girl has stated that she had accompanied the petitioner to his house voluntarily and stayed in his house. However, every inmate of the house was aware of it and it was not the case where the petitioner had committed sexual assault on the victim girl. He would further submit that the petitioner is in judicial custody for more than 56 days.

4.The learned Government Advocate (Crl.Side) appearing for the respondent would vehemently oppose stating that the petitioner had kidnapped the minor daughter of the defacto complainant and had committed repeated penetrative sexual assault on her. He would further submit that the medical examination of the petitioner as well as the victim is over and the statement under Section 164 Cr.P.C. has also been recorded from the victim girl, wherein, she had stated that on her own volition she had gone along with the petitioner and stayed in his house.

5.Heard the learned Counsel on either side. Perused the F.I.R. and the statement recorded from the victim girl under Section 164 Cr.P.C. and also the other materials placed on record.

6.Taking into consideration of the facts and submissions made by the learned counsels and also taking into consideration the period of incarceration suffered by the petitioner, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to 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 **learned Special Sessions Judge for exclusive trial of cases under POCSO Act 2012**, and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

**(c) the petitioner on his release from prison shall report before the respondent police everyday at 10.30 a.m. until further orders.**

(d) the petitioner shall not commit any offences of similar

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial 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];

(h) if the accused thereafter absconds, a fresh FIR can be registered under Section 229A IPC.

7. With the above directions, this Criminal Original Petition is ordered.

-sd/-

02/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)  
High Court, Madras - 600 104.

TO

1 THE SPECIAL SESSIONS COURT  
FOR EXCLUSIVE TRIAL OF CASES UNDER POCSO ACT 2012.

2 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

3 THE INSPECTOR OF POLICE,  
W-16, ALL WOMEN POLICE STATION,  
CHENNAI.

5 THE JAILER,  
SUB-JAIL, SAIDAPET, CHENNAI.

CC to M/S. M.P.SARAVANAN Advocate on payment of necessary charges

CRL OP.16804/2020

Date : 02/11/2020

TA-03/11/2020

<https://hcservices.ecourts.gov.in/hcservices/>