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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Cr1.O.P.No.23720 of 2021

Ajith @ Ajith Kumar

... Petitioner

Vs.

The State rep by  
The Inspector of Police,  
Mangalapuram Police Station,  
Namakkal District.  
(Cr.No.369 of 2021)

... Respondent

PRAYER: Criminal Original Petition has been filed under Section 439 of Cr.P.C praying to enlarge the petitioner on bail in Crime.No.369 of 2021 on the file of the Inspector of Police, Mangalapuram Police Station, Namakkal District.

For Petitioner : Mr.K.Murthy

For Respondent : Mr.N.S.Suganthan  
Government Advocate (Cr1. Side)

ORDER

The petitioner who was arrested and remanded to judicial custody on 04.10.2021 for the offences under Sections 366 IPC and Section 5(1) r/w 6 of POCSO Act 2012, in Crime No.369 of 2021, on the file of the respondent police, seeks bail.

2. The case of the prosecution is that initially the case was registered under girl missing and later during the course of investigation, the respondent police came to know that on 02.10.2021, the petitioner kidnapped the the defacto complainant's daughter and sexually assaulted the victim girl and thereafter, the case was altered into 366 IPC and 5(1) r/w 6 of POCSO Act 2012. Hence the complaint.

3. The learned Counsel for the petitioner would submit that both the petitioner and the victim belongs to same community and they are lovers. He further submits that the victim girl on her own volition, went along with the petitioner and had sexual relation with him . He



further submits that the petitioner has been suffering incarceration for more than 60 days from 04.10.2021. Hence, he seeks for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) would raise objection stating that the statement has been recorded from the victim girl under Section 164 Cr.P.C and now, the victim girl is under the care of her parents and he further submits that the investigation was almost completed.

5. A perusal of 164 Statement reveals that the victim girl on her own volition went along with the petitioner and had sexual relationship and also the considering the fact that the investigation was almost completed and also considering the period of incarceration undergone by the petitioner, this court is inclined to grant bail to the petitioner with conditions.

5. 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 Mahila Judge, Namakkal 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 every Wednesday and Sunday at at 10.30 a.m. until further orders.

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

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

(e) the petitioner shall not have any communication with defacto complainant and victim girl.

(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]; and;



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

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-sd/-  
08/12/2021

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 MAHILA JUDGE,  
NAMAKKAL.

2 THE INSPECTOR OF POLICE  
MANGALAPURAM POLICE STATION,  
NAMAKKAL DISTRICT.

3 THE SUPERINTENDENT,  
CENTRAL PRISON, SALEM.

4 THE PUBLIC PROSECUTOR  
HIGH COURT, MADRAS.

+1 CC to M/S.K.MURTHY Advocate on payment of necessary charges  
SR.NO.14285

CRL OP.23720/2021

Date :08/12/2021

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8/12/2021