



Crl.OP.No.20520 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.09.2022

CORAM

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

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Kaviyarasan

... Petitioner

Vs.

The State represented by,
The Inspector of Police,
Pennagaram Police Station,
Dharmapuri District.
(Crime No.136/2022).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
pleased to grant bail to the petitioner pending investigation in Crime No.136
of 2022 on the file of the respondent police.

For Petitioner : Mr.P.M.Jayachandran

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl. Side)



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ORDER

The petitioner, who was arrested and remanded to judicial custody on 08.08.2022 for the offences punishable under Sections 363 & 366 of IPC and Section 5(l) r/w 6 of POCSO Act, 2012, in Crime No.136 of 2022 on the file of the respondent police, seeks bail.

2. Based on the complaint given by the mother of the victim that her minor daughter was missing, a case was initially registered as girl missing. Later it comes to light that, on 02.06.2022, the victim girl was accompanied by her uncle on the way to her house and at about 09.30 p.m., when her uncle has gone to a bakery near Pennagaram old bus stand to purchase snacks, the petitioner kidnapped the victim girl and took her to his friend's house and stayed there on 02.06.2022 and he had forcible sexual intercourse with the victim girl. Hence, the case has been altered to offences punishable under Sections 363 & 366 of IPC and Section 5(l) r/w 6 of POCSO Act, 2012.



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3. The learned counsel appearing for the petitioner would submit that the petitioner is innocent and a false complaint has been given as against the petitioner. He would also submit that the petitioner and the victim girl had love affair, since they belong to different communities, it was objected to by the parents of the victim and the victim had eloped from the house and had compelled the petitioner to take her away. He would further submit that the petitioner was also on his youth without understanding the consequences, had gone along with the girl and later coming to know that a case was registered, they voluntarily surrendered before the respondent police. He would reiterate that the petitioner understands that the 164 of Cr.P.C., statement has been recorded from the victim girl, where she had stated that she had on her own volition gone along with the petitioner. He would also submit that the petitioner is in custody from 08.08.2022 and the medical examination in respect of him is over. Hence, he prays for grant of bail to the petitioner.

4. The learned Government Advocate (Crl. Side) appearing for the respondent would submit that the petitioner had kidnapped the minor daughter of the defacto complainant and had committed penetrative sexual



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assault on the victim girl. He would also submit that the investigation is pending. Hence, he vehemently opposed to grant bail to the petitioner.

5. Heard both the learned counsel and perused the CD file including the 164 of Cr.P.C., statement recorded from the victim girl.

6. Taking into consideration of the facts and circumstances of the case, the submissions made by the learned counsel, this Court is inclined to grant bail to the petitioner.

7. Accordingly, the petitioner is ordered to be released on bail on his executing a bond for a sum of **Rs.25,000/- (Rupees Twenty Five thousand only)** with **two sureties**, each for a like sum to the satisfaction of the **learned Fast Track Mahila Court, Dharmapuri**, 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 stay at Salem and report before the Inspector of Police, Town Police



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Station, Salem daily at 10.30 a.m., until further orders and it is made clear that the petitioner shall not enter into the jurisdiction of the respondent police until further orders;

[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 abscond, a fresh FIR can be registered under Section 229A IPC.

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To

1. The Fast Track Mahila Court,
Dharmapuri.
2. The Inspector of Police,
Pennagaram Police Station,
Dharmapuri District.
3. The Inspector of Police,
Town Police Station,
Salem.
4. The Superintendent,
Central Jail,
Salem.
5. The Public Prosecutor,
High Court of Madras.



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A.D.JAGADISH CHANDIRA., J.

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